

1   **SECTION 1. SHORT TITLE.**

2           This Act may be cited as the “National Defense Author-  
3   ization Act for Fiscal Year 2004”.

4   **SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE**  
5   **OF CONTENTS.**

6           (a) DIVISIONS.—This Act is organized into three divisions  
7   as follows:

8           (1) Division A—Department of Defense Authoriza-  
9   tions.

10          (2) Division B—Military Construction Authorizations.

11          (3) Division C—Department of Energy National Secu-  
12   rity Authorizations and Other Authorizations.

13          (b) TABLE OF CONTENTS.—The table of contents for this  
14   Act is as follows:

Sec. 1. Short title.

Sec. 2. Organization of Act into divisions; table of contents.

Sec. 3. Congressional defense committees defined.

## **DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS**

### **TITLE I—PROCUREMENT**

#### **Subtitle A—Authorization of Appropriations**

Sec. 101. Army.

Sec. 102. Navy and Marine Corps.

Sec. 103. Air Force.

Sec. 104. Defense-wide activities.

#### **Subtitle B—Army Programs**

Sec. 111. Stryker vehicle program.

Sec. 112. CH-47 helicopter program.

#### **Subtitle C—Navy Programs**

Sec. 121. Multiyear procurement authority for F/A-18 aircraft program.

Sec. 122. Multiyear procurement authority for Tactical Tomahawk cruise  
missile program.

Sec. 123. Multiyear procurement authority for Virginia class submarine  
program.

Sec. 124. Multiyear procurement authority for E-2C aircraft program.

Sec. 125. Multiyear procurement authority for Phalanx Close In Weapon  
System program.

Sec. 126. Pilot program for flexible funding of cruiser conversions and  
overhauls.

#### **Subtitle D—Air Force Programs**

Sec. 131. Elimination of quantity limitations on multiyear procurement au-  
thority for C-130J aircraft.



## 2

- Sec. 132. Limitation on retiring C-5 aircraft.
- Sec. 133. Limitation on obligation of funds for procurement of F/A-22 aircraft.
- Sec. 134. Aircraft for performance of aerial refueling mission.
- Sec. 135. Procurement of tanker aircraft.

## **TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION**

### **Subtitle A—Authorization of Appropriations**

- Sec. 201. Authorization of appropriations.
- Sec. 202. Amount for defense science and technology.

### **Subtitle B—Program Requirements, Restrictions, and Limitations**

- Sec. 211. Collaborative program for development of electromagnetic gun technology.
- Sec. 212. Leadership and duties of Department of Defense Test Resource Management Center.
- Sec. 213. Development of the Joint Tactical Radio System.
- Sec. 214. Future Combat Systems.
- Sec. 215. Extension of reporting requirement for RAH-66 Comanche aircraft program.
- Sec. 216. Studies of fleet platform architectures for the Navy.

### **Subtitle C—Ballistic Missile Defense**

- Sec. 221. Enhanced flexibility for ballistic missile defense systems.
- Sec. 222. Fielding of ballistic missile defense capabilities.
- Sec. 223. Oversight of procurement, performance criteria, and operational test plans for ballistic missile defense programs.
- Sec. 224. Renewal of authority to assist local communities affected by ballistic missile defense system test bed.
- Sec. 225. Prohibition on use of funds for nuclear-armed interceptors in missile defense systems.
- Sec. 226. Follow-on research, development, test, and evaluation related to system improvements for missile defense programs transferred to military departments.

### **Subtitle D—Other Matters**

- Sec. 231. Global Research Watch program in the Office of the Director of Defense Research and Engineering.
- Sec. 232. Defense Advanced Research Projects Agency biennial strategic plan.
- Sec. 233. Enhancement of authority of Secretary of Defense to support science, mathematics, engineering, and technology education.
- Sec. 234. Department of Defense program to expand high-speed, high-bandwidth capabilities for network-centric operations.
- Sec. 235. Blue forces tracking initiative.

## **TITLE III—OPERATION AND MAINTENANCE**

### **Subtitle A—Authorization of Appropriations**

- Sec. 301. Operation and maintenance funding.
- Sec. 302. Working capital funds.
- Sec. 303. Other Department of Defense programs.

### **Subtitle B—Environmental Provisions**

- Sec. 311. Reauthorization and modification of title I of Sikes Act.



## 3

- Sec. 312. Clarification of Department of Defense response to environmental emergencies.
- Sec. 313. Repeal of authority to use environmental restoration account funds for relocation of a contaminated facility.
- Sec. 314. Authorization for Department of Defense participation in wetland mitigation banks.
- Sec. 315. Inclusion of environmental response equipment and services in Navy definitions of salvage facilities and salvage services.
- Sec. 316. Repeal of model program for base closure environmental restoration.
- Sec. 317. Requirements for restoration advisory boards and exemption from Federal Advisory Committee Act.
- Sec. 318. Military readiness and conservation of protected species.
- Sec. 319. Military readiness and marine mammal protection.
- Sec. 320. Report regarding impact of civilian community encroachment and certain legal requirements on military installations and ranges and plan to address encroachment.
- Sec. 321. Cooperative water use management related to Fort Huachuca, Arizona, and Sierra Vista subwatershed.
- Sec. 322. Task force on resolution of conflict between military training and endangered species protection at Barry M. Goldwater Range, Arizona.
- Sec. 323. Public health assessment of exposure to perchlorate.
- Sec. 324. Comptroller General review of Arctic Military Environmental Cooperation program.

**Subtitle C—Workplace and Depot Issues**

- Sec. 331. Exemption of certain firefighting service contracts from prohibition on contracts for performance of firefighting functions.
- Sec. 332. Technical amendment relating to closure of Sacramento Army Depot, California.
- Sec. 333. Exception to competition requirement for depot-level maintenance and repair workloads performed by depot-level activities.
- Sec. 334. Resources-based schedules for completion of public-private competitions for performance of Department of Defense functions.
- Sec. 335. Delayed implementation of revised Office of Management and Budget Circular A-76 by Department of Defense pending report.
- Sec. 336. Pilot program for best-value source selection for performance of information technology services.
- Sec. 337. High-performing organization business process reengineering pilot program.
- Sec. 338. Naval Aviation Depots multi-trades demonstration project.

**Subtitle D—Other Matters**

- Sec. 341. Cataloging and standardization for defense supply management.
- Sec. 342. Sale of Defense Information Systems Agency services to contractors performing the Navy-Marine Corps Intranet contract.
- Sec. 343. Permanent authority for purchase of certain municipal services at installations in Monterey County, California.
- Sec. 344. Department of Defense telecommunications benefit.
- Sec. 345. Independent assessment of material condition of the KC-135 aerial refueling fleet.

**TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS****Subtitle A—Active Forces**

- Sec. 401. End strengths for active forces.



- Sec. 402. Revision in permanent active duty end strength minimum levels.
- Sec. 403. Personnel strength authorization and accounting process.

#### **Subtitle B—Reserve Forces**

- Sec. 411. End strengths for Selected Reserve.
- Sec. 412. End strengths for Reserves on active duty in support of the reserves.
- Sec. 413. End strengths for military technicians (dual status).
- Sec. 414. Fiscal year 2004 limitations on non-dual status technicians.
- Sec. 415. Permanent limitations on number of non-dual status technicians.

#### **Subtitle C—Authorizations of Appropriations**

- Sec. 421. Military personnel.
- Sec. 422. Armed Forces Retirement Home.

### **TITLE V—MILITARY PERSONNEL POLICY**

#### **Subtitle A—Officer Personnel Matters**

- Sec. 501. Standardization of qualifications for appointment as service chief.
- Sec. 502. Eligibility for appointment as Chief of Army Veterinary Corps.
- Sec. 503. Repeal of required grade of defense attaché in France.
- Sec. 504. Repeal of termination provisions for certain authorities relating to management of general and flag officers in certain grades.
- Sec. 505. Retention of health professions officers to fulfill active-duty service commitments following promotion nonselection.
- Sec. 506. Permanent authority to reduce three-year time-in-grade requirement for retirement in grade for officers in grades above major and lieutenant commander.
- Sec. 507. Contingent exclusion from officer strength and distribution-in-grade limitations for officer serving as Associate Director of Central Intelligence for Military Support.
- Sec. 508. Reappointment of incumbent Chief of Naval Operations.
- Sec. 509. Secretary of Defense approval required for practice of wearing uniform insignia of higher grade known as “frocking”.

#### **Subtitle B—Reserve Component Matters**

- Sec. 511. Streamlined process for continuation of officers on the Reserve Active-Status List.
- Sec. 512. Consideration of Reserve officers for position vacancy promotions in time of war or national emergency.
- Sec. 513. Authority for delegation of required secretarial special finding for placement of certain retired members in Ready Reserve.
- Sec. 514. Authority to provide expenses of Army and Air Staff personnel and National Guard Bureau personnel attending national conventions of certain military associations.
- Sec. 515. Expanded authority for use of Ready Reserve in response to terrorism.
- Sec. 516. National Guard officers on active duty in command of National Guard units.
- Sec. 517. Presidential report on mobilization of reserve component personnel and Secretary of Defense assessment.
- Sec. 518. Authority for the use of operation and maintenance funds for promotional activities of the National Committee for Employer Support of the Guard and Reserve.

#### **Subtitle C—ROTC and Military Service Academies**

- Sec. 521. Expanded educational assistance authority for cadets and midshipmen receiving ROTC scholarships.



- Sec. 522. Increase in allocation of scholarships under Army Reserve ROTC scholarship program to students at military junior colleges.
- Sec. 523. Authority for nonscholarship senior ROTC sophomores to voluntarily contract for and receive subsistence allowance.
- Sec. 524. Appointments to military service academies from nominations made by delegates from Guam, Virgin Islands, and American Samoa.
- Sec. 525. Readmission to service academies of certain former cadets and midshipmen.
- Sec. 526. Defense task force on sexual harassment and violence at the military service academies.
- Sec. 527. Actions to address sexual harassment and violence at the service academies.
- Sec. 528. Study and report related to permanent professors at the United States Air Force Academy.
- Sec. 529. Dean of the faculty of the United States Air Force Academy.

#### **Subtitle D—Other Military Education and Training Matters**

- Sec. 531. Authority for the Marine Corps University to award the degree of Master of Operational Studies.
- Sec. 532. Authorization for Naval Postgraduate School to provide instruction to enlisted members participating in certain programs.
- Sec. 533. Cost reimbursement requirements for personnel receiving instruction at the Air Force Institute of Technology.
- Sec. 534. Inclusion of accrued interest in amounts that may be repaid under Selected Reserve critical specialties education loan repayment program.
- Sec. 535. Funding of education assistance enlistment incentives to facilitate national service through Department of Defense Education Benefits Fund.
- Sec. 536. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
- Sec. 537. Impact aid eligibility for heavily impacted local educational agencies affected by privatization of military housing.

#### **Subtitle E—Administrative Matters**

- Sec. 541. High-tempo personnel management and allowance.
- Sec. 542. Enhanced retention of accumulated leave for high-deployment members.
- Sec. 543. Standardization of statutory authorities for exemptions from requirement for access to secondary schools by military recruiters.
- Sec. 544. Procedures for consideration of applications for award of the Purple Heart medal to veterans held as prisoners of war before April 25, 1962.
- Sec. 545. Authority for Reserve and retired regular officers to hold State and local office notwithstanding call to active duty.
- Sec. 546. Policy on public identification of casualties.
- Sec. 547. Space personnel career fields.
- Sec. 548. Department of Defense Joint Advertising, Market Research, and Studies program.
- Sec. 549. Limitation on force structure reductions in Naval and Marine Corps Reserve aviation squadrons.



**Subtitle F—Military Justice Matters**

- Sec. 551. Extended limitation period for prosecution of child abuse cases in courts-martial.
- Sec. 552. Clarification of blood alcohol content limit for the offense under the Uniform Code of Military Justice of drunken operation of a vehicle, aircraft, or vessel.

**Subtitle G—Benefits**

- Sec. 561. Additional classes of individuals eligible to participate in the Federal long-term care insurance program.
- Sec. 562. Authority to transport remains of retirees and retiree dependents who die in military treatment facilities.
- Sec. 563. Eligibility for dependents of certain mobilized reservists stationed overseas to attend defense dependents schools overseas.

**Subtitle H—Domestic Violence**

- Sec. 571. Travel and transportation for dependents relocating for reasons of personal safety.
- Sec. 572. Commencement and duration of payment of transitional compensation.
- Sec. 573. Exceptional eligibility for transitional compensation.
- Sec. 574. Types of administrative separations triggering coverage.
- Sec. 575. Comptroller General review and report.
- Sec. 576. Fatality reviews.
- Sec. 577. Sense of Congress.

**Subtitle I—Other Matters**

- Sec. 581. Recognition of military families.
- Sec. 582. Permanent authority for support for certain chaplain-led military family support programs.
- Sec. 583. Department of Defense-Department of Veterans Affairs Joint Executive Committee.
- Sec. 584. Review of the 1991 death of Marine Corps Colonel James E. Sabow.
- Sec. 585. Policy on concurrent deployment to combat zones of both military spouses of military families with minor children.
- Sec. 586. Congressional notification of amendment or cancellation of Department of Defense directive relating to reasonable access to military installations for certain personal commercial solicitation.
- Sec. 587. Study of National Guard Challenge Program.
- Sec. 588. Findings and sense of Congress on reward for information leading to resolution of status of members of the Armed Forces who remain unaccounted for.

**TITLE VI—COMPENSATION AND OTHER PERSONNEL  
BENEFITS****Subtitle A—Pay and Allowances**

- Sec. 601. Increase in basic pay for fiscal year 2004.
- Sec. 602. Revised annual pay adjustment process.
- Sec. 603. Computation of basic pay rate for commissioned officers with prior enlisted or warrant officer service.
- Sec. 604. Special subsistence allowance authorities for members assigned to high-cost duty location or under other unique and unusual circumstances.
- Sec. 605. Basic allowance for housing for each member married to another member without dependents when both spouses are on sea duty.



Sec. 606. Temporary increase in authorized amount of family separation allowance.

**Subtitle B—Bonuses and Special and Incentive Pays**

Sec. 611. One-year extension of certain bonus and special pay authorities for reserve forces.

Sec. 612. One-year extension of certain bonus and special pay authorities for certain health care professionals.

Sec. 613. One-year extension of special pay and bonus authorities for nuclear officers.

Sec. 614. One-year extension of other bonus and special pay authorities.

Sec. 615. Hazardous duty pay for duty involving ski-equipped aircraft on Antarctica or the Arctic icepack.

Sec. 616. Special pay for reserve officers holding positions of unusual responsibility and of critical nature.

Sec. 617. Payment of Selected Reserve reenlistment bonus to members of Selected Reserve who are mobilized.

Sec. 618. Availability of hostile fire and imminent danger special pay for reserve component members on inactive duty.

Sec. 619. Temporary increase in authorized amount of hostile fire and imminent danger special pay.

Sec. 620. Retroactive payment of hostile fire or imminent danger pay for service in eastern Mediterranean Sea in Operation Iraqi Freedom.

Sec. 621. Expansion of overseas tour extension incentive program to officers.

Sec. 622. Repeal of congressional notification requirement for designation of critical military skills for retention bonus.

Sec. 623. Eligibility of warrant officers for accession bonus for new officers in critical skills.

Sec. 624. Special pay for service as member of Weapons of Mass Destruction Civil Support Team.

Sec. 625. Incentive bonus for conversion to military occupational specialty to ease personnel shortage.

Sec. 626. Bonus for reenlistment during service on active duty in Afghanistan, Iraq, or Kuwait.

**Subtitle C—Travel and Transportation Allowances**

Sec. 631. Shipment of privately owned motor vehicle within continental United States.

Sec. 632. Transportation of dependents to presence of members of the Armed Forces retired for illness or injury incurred in active duty.

Sec. 633. Payment or reimbursement of student baggage storage costs for dependent children of members stationed overseas.

Sec. 634. Contracts for full replacement value for loss or damage to personal property transported at Government expense.

Sec. 635. Payment of lodging expenses of members during authorized leave from temporary duty location.

**Subtitle D—Retired Pay and Survivor Benefits**

Sec. 641. Phase-in of full concurrent receipt of military retired pay and veterans disability compensation for certain military retirees.

Sec. 642. Revisions to combat-related special compensation program.

Sec. 643. Special rule for computation of retired pay base for commanders of combatant commands.



- Sec. 644. Survivor Benefit Plan annuities for surviving spouses of Reserves not eligible for retirement who die from a cause incurred or aggravated while on inactive-duty training.
- Sec. 645. Survivor Benefit Plan modifications.
- Sec. 646. Increase in death gratuity payable with respect to deceased members of the Armed Forces.
- Sec. 647. Death benefits study.

**Subtitle E—Commissary and Nonappropriated Fund  
Instrumentality Benefits**

- Sec. 651. Expanded commissary access for Selected Reserve members, reserve retirees under age 60, and their dependents.
- Sec. 652. Defense commissary system and exchange stores system.
- Sec. 653. Limitations on private operation of defense commissary store functions.
- Sec. 654. Use of appropriated funds to operate defense commissary system.
- Sec. 655. Recovery of nonappropriated fund instrumentality and commissary store investments in real property at military installations closed or realigned.

**Subtitle F—Other Matters**

- Sec. 661. Comptroller General report on adequacy of special pays and allowances for frequently deployed members.

**TITLE VII—HEALTH CARE PROVISIONS**

**Subtitle A—Enhanced Benefits for Reserves**

- Sec. 701. Medical and dental screening for Ready Reserve members alerted for mobilization.
- Sec. 702. Coverage for Ready Reserve members under TRICARE program.
- Sec. 703. Earlier eligibility date for TRICARE benefits for members of reserve components.
- Sec. 704. Temporary extension of transitional health care benefits.
- Sec. 705. Assessment of needs of Reserves for health care benefits.
- Sec. 706. Limitation on fiscal year 2004 outlays for temporary Reserve health care programs.
- Sec. 707. TRICARE beneficiary counseling and assistance coordinators for reserve component beneficiaries.
- Sec. 708. Eligibility of Reserve officers for health care pending orders to active duty following commissioning.

**Subtitle B—Other Benefits Improvements**

- Sec. 711. Acceleration of implementation of chiropractic health care for members on active duty.
- Sec. 712. Reimbursement of covered beneficiaries for certain travel expenses relating to specialized dental care.
- Sec. 713. Eligibility for continued health benefits coverage extended to certain members of uniformed services.
- Sec. 714. Authority for designated providers to enroll covered beneficiaries with other primary health insurance coverage.

**Subtitle C—Planning, Programming, and Management**

- Sec. 721. Permanent extension of authority to enter into personal services contracts for the performance of health care responsibilities at locations other than military medical treatment facilities.
- Sec. 722. Department of Defense Medicare-Eligible Retiree Health Care Fund valuations and contributions.
- Sec. 723. Surveys on continued viability of TRICARE Standard.





- Sec. 724. Plan for providing health coverage information to members, former members, and dependents eligible for certain health benefits.
- Sec. 725. Transfer of certain members of the Pharmacy and Therapeutics Committee to the Uniform Formulary Beneficiary Advisory Panel under the pharmacy benefits program.
- Sec. 726. Working group on military health care for persons reliant on health care facilities at military installations to be closed or realigned.
- Sec. 727. Joint program for development and evaluation of integrated healing care practices for members of the Armed Forces and veterans.

## **TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS**

### **Subtitle A—Acquisition Policy and Management**

- Sec. 801. Consolidation of contract requirements.
- Sec. 802. Quality control in procurement of aviation critical safety items and related services.
- Sec. 803. Federal support for enhancement of State and local anti-terrorism response capabilities.
- Sec. 804. Special temporary contract closeout authority.
- Sec. 805. Competitive award of contracts for reconstruction activities in Iraq.

### **Subtitle B—United States Defense Industrial Base Provisions**

#### **PART I—ESSENTIAL ITEMS IDENTIFICATION AND DOMESTIC PRODUCTION CAPABILITIES IMPROVEMENT PROGRAM**

- Sec. 811. Consistency with United States obligations under international agreements.
- Sec. 812. Assessment of United States defense industrial base capabilities.
- Sec. 813. Identification of essential items: military system breakout list.
- Sec. 814. Production capabilities improvement for certain essential items using defense industrial base capabilities fund.

#### **PART II—REQUIREMENTS RELATING TO SPECIFIC ITEMS**

- Sec. 821. Elimination of unreliable sources of defense items and components.
- Sec. 822. Incentive program for major defense acquisition programs to use machine tools and other capital assets produced within the United States.
- Sec. 823. Technical assistance relating to machine tools.
- Sec. 824. Study of beryllium industrial base.

#### **PART III—OTHER DOMESTIC SOURCE REQUIREMENTS**

- Sec. 826. Exceptions to Berry amendment for contingency operations and other urgent situations.
- Sec. 827. Inapplicability of Berry amendment to procurements of waste and byproducts of cotton and wool fiber for use in the production of propellants and explosives.
- Sec. 828. Buy American exception for ball bearings and roller bearings used in foreign products.

### **Subtitle C—Defense Acquisition and Support Workforce Flexibility**

- Sec. 831. Management structure.
- Sec. 832. Elimination of role of Office of Personnel Management.



- Sec. 833. Single acquisition corps.
- Sec. 834. Consolidation of certain education and training program requirements.
- Sec. 835. General management provisions.
- Sec. 836. Clerical amendments.

#### **Subtitle D—Amendments to General Contracting Authorities, Procedures, and Limitations**

- Sec. 841. Additional authority to enter into personal services contracts.
- Sec. 842. Elimination of certain subcontract notification requirements.
- Sec. 843. Multiyear task and delivery order contracts.
- Sec. 844. Elimination of requirement to furnish written assurances of technical data conformity.
- Sec. 845. Access to information relevant to items deployed under rapid acquisition and deployment procedures.
- Sec. 846. Applicability of requirement for reports on maturity of technology at initiation of major defense acquisition programs.
- Sec. 847. Certain weapons-related prototype projects.
- Sec. 848. Limited acquisition authority for commander of United States Joint Forces Command.

#### **Subtitle E—Acquisition-Related Reports and Other Matters**

- Sec. 851. Report on contract payments to small businesses.
- Sec. 852. Contracting with employers of persons with disabilities.
- Sec. 853. Demonstration project for contractors employing persons with disabilities.

### **TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT**

#### **Subtitle A—Duties and Functions of Department of Defense Officers and Organizations**

- Sec. 901. Clarification of responsibility of military departments to support combatant commands.
- Sec. 902. Combatant Commander Initiative Fund.
- Sec. 903. Biennial review of national military strategy by Chairman of the Joint Chiefs of Staff.
- Sec. 904. Report on changing roles of United States Special Operations Command.
- Sec. 905. Sense of Congress regarding continuation of mission and functions of Army Peacekeeping Institute.
- Sec. 906. Transfer to Office of Personnel Management of personnel investigative functions and related personnel of the Department of Defense.
- Sec. 907. Defense acquisition workforce freeze for fiscal year 2004.

#### **Subtitle B—Space Activities**

- Sec. 911. Coordination of space science and technology activities of the Department of Defense.
- Sec. 912. Policy regarding assured access to space for United States national security payloads.
- Sec. 913. Pilot program for provision of space surveillance network services to non-United States Government entities.
- Sec. 914. Content of biennial global positioning system report.
- Sec. 915. Report on processes-related space systems.



**Subtitle C—Department of Defense Intelligence Components**

- Sec. 921. Redesignation of National Imagery and Mapping Agency as National Geospatial-Intelligence Agency.
- Sec. 922. Protection of operational files of the National Security Agency.
- Sec. 923. Integration of defense intelligence, surveillance, and reconnaissance capabilities
- Sec. 924. Management of National Security Agency Modernization Program.
- Sec. 925. Modification of obligated service requirements under National Security Education Program.
- Sec. 926. Authority to provide living quarters for certain students in cooperative and summer education programs of the National Security Agency.
- Sec. 927. Commercial imagery industrial base.

**Subtitle D—Other Matters**

- Sec. 931. Authority for Asia-Pacific Center for Security Studies to accept gifts and donations.
- Sec. 932. Repeal of rotating chairmanship of Economic Adjustment Committee.
- Sec. 933. Extension of certain authorities applicable to the Pentagon Reservation to include a designated Pentagon continuity-of-Government location.

**TITLE X—GENERAL PROVISIONS****Subtitle A—Financial Matters**

- Sec. 1001. Transfer authority.
- Sec. 1002. United States contribution to NATO common-funded budgets in fiscal year 2004.
- Sec. 1003. Authorization of supplemental appropriations for fiscal year 2003.
- Sec. 1004. Authorization of supplemental appropriations for fiscal year 2004.
- Sec. 1005. Reestablishment of authority for short-term leases of real or personal property across fiscal years.
- Sec. 1006. Reimbursement rate for certain airlift services provided to Department of State.
- Sec. 1007. Limitation on payment of facilities charges assessed by Department of State.
- Sec. 1008. Use of the Defense Modernization Account for life cycle cost reduction initiatives.
- Sec. 1009. Provisions relating to defense travel cards.

**Subtitle B—Naval Vessels and Shipyards**

- Sec. 1011. Repeal of requirement regarding preservation of surge capability for naval surface combatants.
- Sec. 1012. Enhancement of authority relating to use for experimental purposes of vessels stricken from Naval Vessel Register.
- Sec. 1013. Transfer of vessels stricken from the Naval Vessel Register for use as artificial reefs.
- Sec. 1014. Priority for Title XI assistance.
- Sec. 1015. Support for transfers of decommissioned vessels and shipboard equipment.
- Sec. 1016. Advanced Shipbuilding Enterprise.
- Sec. 1017. Report on Navy plans for basing aircraft carriers.
- Sec. 1018. Limitation on disposal of obsolete naval vessel.



**Subtitle C—Counterdrug Matters**

- Sec. 1021. Expansion and extension of authority to provide additional support for counter-drug activities.
- Sec. 1022. Authority for joint task forces to provide support to law enforcement agencies conducting counter-terrorism activities.
- Sec. 1023. Use of funds for unified counterdrug and counterterrorism campaign in Colombia.
- Sec. 1024. Sense of Congress on reconsideration of decision to terminate border and seaport inspection duties of National Guard under National Guard drug interdiction and counter-drug mission.

**Subtitle D—Reports**

- Sec. 1031. Repeal and modification of various reporting requirements applicable to the Department of Defense.
- Sec. 1032. Plan for prompt global strike capability.
- Sec. 1033. Annual report concerning dismantling of strategic nuclear warheads.
- Sec. 1034. Report on use of unmanned aerial vehicles for support of homeland security missions.

**Subtitle E—Codifications, Definitions, and Technical Amendments**

- Sec. 1041. Codification and revision of defense counterintelligence polygraph program authority.
- Sec. 1042. General definitions applicable to facilities and operations of Department of Defense.
- Sec. 1043. Additional definitions for purposes of title 10, United States Code.
- Sec. 1044. Inclusion of annual military construction authorization request in annual defense authorization request.
- Sec. 1045. Technical and clerical amendments.

**Subtitle F—Other Matters**

- Sec. 1051. Assessment of effects of specified statutory limitations on the granting of security clearances.
- Sec. 1052. Acquisition of historical artifacts through exchange of obsolete or surplus property.
- Sec. 1053. Conveyance of surplus T-37 aircraft to Air Force Aviation Heritage Foundation, Incorporated.
- Sec. 1054. Department of Defense biennial strategic plan for management of electromagnetic spectrum.
- Sec. 1055. Revision of Department of Defense directive relating to management and use of radio frequency spectrum.
- Sec. 1056. Sense of Congress on deployment of airborne chemical agent monitoring systems at chemical stockpile disposal sites in the United States.
- Sec. 1057. Expansion of pre-September 11, 2001, fire grant program of United States Fire Administration.
- Sec. 1058. Review and enhancement of existing authorities for using Air Force and Air National Guard Modular Airborne Fire-Fighting Systems and other Department of Defense assets to fight wildfires.



**TITLE XI—CIVILIAN PERSONNEL MATTERS****Subtitle A—Department of Defense National Security  
Personnel System**

Sec. 1101. Department of Defense national security personnel system.

**Subtitle B—Department of Defense Civilian Personnel  
Generally**

Sec. 1111. Pilot program for improved civilian personnel management.

Sec. 1112. Clarification and revision of authority for demonstration project relating to certain acquisition personnel management policies and procedures.

Sec. 1113. Military leave for mobilized Federal civilian employees.

Sec. 1114. Restoration of annual leave for certain Department of Defense employees.

Sec. 1115. Authority to employ civilian faculty members at the Western Hemisphere Institute for Security Cooperation.

Sec. 1116. Extension of authority for experimental personnel program for scientific and technical personnel.

**Subtitle C—Other Federal Government Civilian Personnel  
Matters**

Sec. 1121. Modification of the overtime pay cap.

Sec. 1122. Common occupational and health standards for differential payments as a consequence of exposure to asbestos.

Sec. 1123. Increase in annual student loan repayment authority.

Sec. 1124. Authorization for cabinet secretaries, secretaries of military departments, and heads of executive agencies to be paid on a bi-weekly basis.

Sec. 1125. Senior Executive Service and performance.

Sec. 1126. Design elements of pay-for-performance systems in demonstration projects.

Sec. 1127. Federal flexible benefits plan administrative costs.

Sec. 1128. Employee surveys.

Sec. 1129. Human capital performance fund.

**TITLE XII—MATTERS RELATING TO OTHER NATIONS****Subtitle A—Matters Relating to Iraq**

Sec. 1201. Medical assistance to Iraqi children injured during Operation Iraqi Freedom.

Sec. 1202. Report on the conduct of Operation Iraqi Freedom.

Sec. 1203. Report on Department of Defense security and reconstruction activities in Iraq.

Sec. 1204. Report on acquisition by Iraq of advanced weapons.

Sec. 1205. Sense of Congress on use of small businesses, minority-owned businesses, and women-owned businesses in efforts to rebuild Iraq.

**Subtitle B—Matters Relating to Export Protections**

Sec. 1211. Review of export protections for military superiority resources.

Sec. 1212. Report on Department of Defense costs relating to national security controls on satellite exports.

**Subtitle C—Administrative Requirements and Authorities**

Sec. 1221. Authority to use funds for payment of costs of attendance of foreign visitors under Regional Defense Counterterrorism Fellowship Program.



## 14

- Sec. 1222. Recognition of superior noncombat achievements or performance by members of friendly foreign forces and other foreign nationals.
- Sec. 1223. Expansion of authority to waive charges for costs of attendance at George C. Marshall European Center for Security Studies.
- Sec. 1224. Authority for check cashing and currency exchange services to be provided to foreign military members participating in certain activities with United States forces.
- Sec. 1225. Depot maintenance and repair work on certain types of trainer aircraft to be transferred to foreign countries as excess aircraft.

**Subtitle D—Other Reports and Sense of Congress  
Statements**

- Sec. 1231. Annual report on the NATO Prague Capabilities Commitment and the NATO Response Force.
- Sec. 1232. Report on actions that could be taken regarding countries that initiate certain legal actions against United States officials or members of the Armed Forces.
- Sec. 1233. Sense of Congress on redeployment of United States forces in Europe.
- Sec. 1234. Sense of Congress concerning Navy port calls in Israel.

**TITLE XIII—COOPERATIVE THREAT REDUCTION WITH  
STATES OF THE FORMER SOVIET UNION**

- Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
- Sec. 1302. Funding allocations.
- Sec. 1303. Limitation on use of funds until certain permits obtained.
- Sec. 1304. Limitation on use of funds for biological research in the former Soviet Union.
- Sec. 1305. Requirement for on-site managers.
- Sec. 1306. Temporary authority to waive limitation on funding for chemical weapons destruction facility in Russia.
- Sec. 1307. Annual certifications on use of facilities being constructed for Cooperative Threat Reduction projects or activities.
- Sec. 1308. Authority to use Cooperative Threat Reduction funds outside the former Soviet Union.

**TITLE XIV—SERVICES ACQUISITION REFORM**

- Sec. 1401. Short title.

**Subtitle A—Acquisition Workforce and Training**

- Sec. 1411. Definition of acquisition.
- Sec. 1412. Acquisition workforce training fund.
- Sec. 1413. Acquisition workforce recruitment program.
- Sec. 1414. Architectural and engineering acquisition workforce.

**Subtitle B—Adaptation of Business Acquisition Practices**

PART I—ADAPTATION OF BUSINESS MANAGEMENT PRACTICES

- Sec. 1421. Chief Acquisition Officers.
- Sec. 1422. Chief Acquisition Officers Council.
- Sec. 1423. Statutory and regulatory review.

PART II—OTHER ACQUISITION IMPROVEMENTS

- Sec. 1426. Extension of authority to carry out franchise fund programs.
- Sec. 1427. Improvements in contracting for architectural and engineering services.
- Sec. 1428. Authorization of telecommuting for Federal contractors.



**Subtitle C—Acquisitions of Commercial Items**

- Sec. 1431. Additional incentive for use of performance-based contracting for services.
- Sec. 1432. Authorization of additional commercial contract types.
- Sec. 1433. Clarification of commercial services definition.

**Subtitle D—Other Matters**

- Sec. 1441. Authority to enter into certain transactions for defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack.
- Sec. 1442. Public disclosure of noncompetitive contracting for the reconstruction of infrastructure in Iraq.
- Sec. 1443. Special emergency procurement authority.

**TITLE XV—VETERANS' DISABILITY BENEFITS COMMISSION**

- Sec. 1501. Establishment of commission.
- Sec. 1502. Duties of the commission.
- Sec. 1503. Report.
- Sec. 1504. Powers of the commission.
- Sec. 1505. Personnel matters.
- Sec. 1506. Termination of commission.
- Sec. 1507. Funding.

**TITLE XVI—DEFENSE BIOMEDICAL COUNTERMEASURES**

- Sec. 1601. Research and development of defense biomedical countermeasures.
- Sec. 1602. Procurement of defense biomedical countermeasures.
- Sec. 1603. Authorization for medical products for use in emergencies.

**TITLE XVII—NATURALIZATION AND OTHER IMMIGRATION BENEFITS FOR MILITARY PERSONNEL AND FAMILIES**

- Sec. 1701. Requirements for naturalization through service in the Armed Forces of the United States.
- Sec. 1702. Naturalization benefits for members of the Selected Reserve of the Ready Reserve.
- Sec. 1703. Extension of posthumous benefits to surviving spouses, children, and parents.
- Sec. 1704. Expedited process for granting posthumous citizenship to members of the Armed Forces.
- Sec. 1705. Effective date.

**DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS**

- Sec. 2001. Short title.

**TITLE XXI—ARMY**

- Sec. 2101. Authorized Army construction and land acquisition projects.
- Sec. 2102. Family housing.
- Sec. 2103. Improvements to military family housing units.
- Sec. 2104. Authorization of appropriations, Army.
- Sec. 2105. Termination or modification of authority to carry out certain fiscal year 2003 projects.



## 16

Sec. 2106. Modification of authority to carry out certain fiscal year 2002 projects.

Sec. 2107. Termination or modification of authority to carry out certain fiscal year 2001 projects.

**TITLE XXII—NAVY**

Sec. 2201. Authorized Navy construction and land acquisition projects.

Sec. 2202. Family housing.

Sec. 2203. Improvements to military family housing units.

Sec. 2204. Authorization of appropriations, Navy.

Sec. 2205. Termination of authority to carry out certain fiscal year 2003 projects.

Sec. 2206. Termination or modification of authority to carry out certain fiscal year 2002 projects.

**TITLE XXIII—AIR FORCE**

Sec. 2301. Authorized Air Force construction and land acquisition projects.

Sec. 2302. Family housing.

Sec. 2303. Improvements to military family housing units.

Sec. 2304. Authorization of appropriations, Air Force.

Sec. 2305. Termination or modification of authority to carry out certain fiscal year 2003 projects.

**TITLE XXIV—DEFENSE AGENCIES**

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.

Sec. 2402. Family housing.

Sec. 2403. Improvements to military family housing units.

Sec. 2404. Energy conservation projects.

Sec. 2405. Authorization of appropriations, Defense Agencies.

Sec. 2406. Termination of authority to carry out certain fiscal year 2003 projects.

**TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION  
SECURITY INVESTMENT PROGRAM**

Sec. 2501. Authorized NATO construction and land acquisition projects.

Sec. 2502. Authorization of appropriations, NATO.

**TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES**

Sec. 2601. Authorized Guard and Reserve construction and land acquisition projects.

**TITLE XXVII—EXPIRATION AND EXTENSION OF  
AUTHORIZATIONS**

Sec. 2701. Expiration of authorizations and amounts required to be specified by law.

Sec. 2702. Extension of authorizations of certain fiscal year 2001 projects.

Sec. 2703. Extension of authorizations of certain fiscal year 2000 projects.

**TITLE XXVIII—GENERAL PROVISIONS****Subtitle A—Military Construction Program and Military  
Family Housing Changes**

Sec. 2801. Modification of general definitions relating to military construction.

Sec. 2802. Increase in maximum amount of authorized annual emergency construction.

Sec. 2803. Increase in number of family housing units in Italy authorized for lease by the Navy.





- Sec. 2804. Increase in authorized maximum lease term for family housing and other facilities in certain foreign countries.
- Sec. 2805. Conveyance of property at military installations closed or realigned to support military construction.
- Sec. 2806. Inapplicability of space limitations to military unaccompanied housing units acquired or constructed under alternative authority.
- Sec. 2807. Additional material for reports on housing privatization program.
- Sec. 2808. Temporary, limited authority to use operation and maintenance funds for construction projects outside the United States.
- Sec. 2809. Report on military construction requirements to support new homeland defense missions of the Armed Forces.

#### **Subtitle B—Real Property and Facilities Administration**

- Sec. 2811. Enhancement of authority to acquire low-cost interests in land.
- Sec. 2812. Retention and availability of amounts realized from energy cost savings.
- Sec. 2813. Acceptance of in-kind consideration for easements.

#### **Subtitle C—Base Closure and Realignment**

- Sec. 2821. Consideration of public-access-road issues related to base closure, realignment, or placement in inactive status.
- Sec. 2822. Consideration of surge requirements in 2005 round of base realignments and closures.

#### **Subtitle D—Land Conveyances**

##### **PART I—ARMY CONVEYANCES**

- Sec. 2831. Termination of lease and conveyance of Army Reserve facility, Conway, Arkansas.
- Sec. 2832. Land conveyance, Fort Campbell, Kentucky and Tennessee.
- Sec. 2833. Land conveyance, Fort Knox, Kentucky.
- Sec. 2834. Army National Guard Armory, Pierce City, Missouri.
- Sec. 2835. Land exchange, Fort Belvoir, Virginia.

##### **PART II—NAVY CONVEYANCES**

- Sec. 2841. Land conveyance, Navy property, Dixon, California.
- Sec. 2842. Land conveyance, Marine Corps Logistics Base, Albany, Georgia.
- Sec. 2843. Land exchange, Naval and Marine Corps Reserve Center, Portland, Oregon.
- Sec. 2844. Land conveyance, Naval Reserve Center, Orange, Texas.
- Sec. 2845. Land conveyance, Puget Sound Naval Shipyard, Bremerton, Washington.

##### **PART III—AIR FORCE CONVEYANCES**

- Sec. 2851. Land exchange, March Air Reserve Base, California.
- Sec. 2852. Actions to quiet title, Fallin Waters Subdivision, Eglin Air Force Base, Florida.
- Sec. 2853. Modification of land conveyance, Eglin Air Force Base, Florida.

##### **PART IV—OTHER CONVEYANCES**

- Sec. 2861. Land conveyance, Air Force and Army Exchange Service property, Dallas, Texas.
- Sec. 2862. Land conveyance, Umnak Island, Alaska.



**Subtitle E—Other Matters**

- Sec. 2871. Authority to accept guarantees with gifts in development of Marine Corps Heritage Center, Marine Corps Base, Quantico, Virginia.
- Sec. 2872. Redesignation of Yuma Training Range Complex as Bob Stump Training Range Complex.
- Sec. 2873. Feasibility study regarding conveyance of Louisiana Army Ammunition Plant, Doyline, Louisiana.

## **DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZA- TIONS AND OTHER AUTHORIZATIONS**

### **TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS**

#### **Subtitle A—National Security Programs Authorizations**

- Sec. 3101. National Nuclear Security Administration.
- Sec. 3102. Defense environmental management.
- Sec. 3103. Other defense activities.
- Sec. 3104. Defense nuclear waste disposal.
- Sec. 3105. Energy supply.

#### **Subtitle B—Program Authorizations, Restrictions, and Limitations**

- Sec. 3111. Termination of requirement for annual updates of long-term plan for nuclear weapons stockpile life extension program.
- Sec. 3112. Department of Energy project review groups not subject to Federal Advisory Committee Act by reason of inclusion of employees of Department of Energy management and operating contractors.
- Sec. 3113. Readiness posture for resumption by the United States of underground nuclear weapons tests.
- Sec. 3114. Technical base and facilities maintenance and recapitalization activities.
- Sec. 3115. Continuation of processing, treatment, and disposition of legacy nuclear materials.
- Sec. 3116. Repeal of prohibition on research and development of low-yield nuclear weapons.
- Sec. 3117. Requirement for specific authorization of Congress for commencement of engineering development phase or subsequent phase of Robust Nuclear Earth Penetrator.

#### **Subtitle C—Proliferation Matters**

- Sec. 3121. Semiannual financial reports on defense nuclear nonproliferation programs.
- Sec. 3122. Report on reduction of excessive unobligated or unexpended balances for defense nuclear nonproliferation activities.
- Sec. 3123. Study and report relating to weapons-grade uranium and plutonium of the independent states of the former Soviet Union.
- Sec. 3124. Authority to use international nuclear materials protection and cooperation program funds outside the former Soviet Union.
- Sec. 3125. Requirement for on-site managers.



**Subtitle D—Other Matters**

- Sec. 3131. Performance of personnel security investigations of certain Department of Energy and Nuclear Regulatory Commission employees in sensitive programs.
- Sec. 3132. Policy of Department of Energy regarding future defense environmental management matters.
- Sec. 3133. Inclusion in 2005 stockpile stewardship plan of certain information relating to stockpile stewardship criteria.
- Sec. 3134. Progress reports on Energy Employees Occupational Illness Compensation Program.
- Sec. 3135. Report on integration activities of Department of Defense and Department of Energy with respect to Robust Nuclear Earth Penetrator.

**Subtitle E—Consolidation of National Security Provisions**

- Sec. 3141. Transfer and consolidation of recurring and general provisions on Department of Energy national security programs.

**TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD**

- Sec. 3201. Authorization.

**TITLE XXXIII—NATIONAL DEFENSE STOCKPILE**

- Sec. 3301. Authorized uses of National Defense Stockpile funds.
- Sec. 3302. Revisions to required receipt objectives for previously authorized disposals from National Defense Stockpile.

**TITLE XXXIV—NAVAL PETROLEUM RESERVES**

- Sec. 3401. Authorization of appropriations.

**TITLE XXXV—MARITIME ADMINISTRATION**

- Sec. 3501. Short title.

**Subtitle A—Maritime Administration Reauthorization**

- Sec. 3511. Authorization of appropriations for fiscal years 2004, 2005, 2006, 2007, and 2008.
- Sec. 3512. Conveyance of obsolete vessels under title V, Merchant Marine Act, 1936.
- Sec. 3513. Authority to convey vessel USS HOIST (ARS-40).
- Sec. 3514. Cargo preference.
- Sec. 3515. Maritime education and training.
- Sec. 3516. Authority to convey obsolete vessels to U.S. territories and foreign countries for reefing.
- Sec. 3517. Maintenance and repair reimbursement pilot program.

**Subtitle B—Amendments to Title XI Loan Guarantee Program**

- Sec. 3521. Equity payments by obligor for disbursement prior to termination of escrow agreement.
- Sec. 3522. Waivers of program requirements.
- Sec. 3523. Project monitoring.
- Sec. 3524. Defaults.
- Sec. 3525. Decision period.
- Sec. 3526. Loan guarantees.
- Sec. 3527. Annual report on program.
- Sec. 3528. Review of program.

**Subtitle C—Maritime Security Fleet**

- Sec. 3531. Establishment of Maritime Security Fleet.



## 20

- Sec. 3532. Related amendments to existing law.
- Sec. 3533. Interim rules.
- Sec. 3534. Repeals and conforming amendments.
- Sec. 3535. GAO study of adjustment of operating agreement payment criteria.
- Sec. 3536. Definitions.
- Sec. 3537. Effective dates.

**Subtitle D—National Defense Tank Vessel Construction Assistance**

- Sec. 3541. National defense tank vessel construction program.
- Sec. 3542. Application procedure.
- Sec. 3543. Award of assistance.
- Sec. 3544. Priority for title XI assistance.
- Sec. 3545. Definitions.
- Sec. 3546. Authorization of appropriations.

**TITLE XXXVI—NUCLEAR SECURITY INITIATIVE**

- Sec. 3601. Short title.

**Subtitle A—Administration and Oversight of Threat Reduction and Nonproliferation Programs**

- Sec. 3611. Management assessment of Department of Defense and Department of Energy threat reduction and nonproliferation programs.

**Subtitle B—Relations Between the United States and Russia**

- Sec. 3621. Comprehensive inventory of Russian tactical nuclear weapons.
- Sec. 3622. Establishment of interparliamentary Threat Reduction Working Group.
- Sec. 3623. Sense of Congress on cooperation by United States and NATO with Russia on ballistic missile defenses.
- Sec. 3624. Sense of Congress on enhanced collaboration to achieve more reliable Russian early warning systems.

**Subtitle C—Other Matters**

- Sec. 3631. Promotion of discussions on nuclear and radiological security and safety between the International Atomic Energy Agency and the Organization for Economic Cooperation and Development.

**1 SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DE-**  
**2 FINED.**

**3** For purposes of this Act, the term “congressional defense  
**4** committees” means—

**5** (1) the Committee on Armed Services and the Com-  
**6** mittee on Appropriations of the Senate; and

**7** (2) the Committee on Armed Services and the Com-  
**8** mittee on Appropriations of the House of Representatives.



1–1

1           **DIVISION A—DEPARTMENT OF**  
2           **DEFENSE AUTHORIZATIONS**  
3           **TITLE I—PROCUREMENT**

**Subtitle A—Authorization of Appropriations**

- Sec. 101. Army.  
Sec. 102. Navy and Marine Corps.  
Sec. 103. Air Force.  
Sec. 104. Defense-wide activities.

**Subtitle B—Army Programs**

- Sec. 111. Stryker vehicle program.  
Sec. 112. CH-47 helicopter program.

**Subtitle C—Navy Programs**

- Sec. 121. Multiyear procurement authority for F/A-18 aircraft program.  
Sec. 122. Multiyear procurement authority for Tactical Tomahawk cruise missile program.  
Sec. 123. Multiyear procurement authority for Virginia class submarine program.  
Sec. 124. Multiyear procurement authority for E-2C aircraft program.  
Sec. 125. Multiyear procurement authority for Phalanx Close In Weapon System program.  
Sec. 126. Pilot program for flexible funding of cruiser conversions and overhauls.

**Subtitle D—Air Force Programs**

- Sec. 131. Elimination of quantity limitations on multiyear procurement authority for C-130J aircraft.  
Sec. 132. Limitation on retiring C-5 aircraft.  
Sec. 133. Limitation on obligation of funds for procurement of F/A-22 aircraft.  
Sec. 134. Aircraft for performance of aerial refueling mission.  
Sec. 135. Procurement of tanker aircraft.

4           **Subtitle A—Authorization of**  
5           **Appropriations**

6           **SEC. 101. ARMY.**

7           Funds are hereby authorized to be appropriated for fiscal  
8           year 2004 for procurement for the Army as follows:

- 9           (1) For aircraft, \$2,098,985,000.  
10          (2) For missiles, \$1,549,462,000.  
11          (3) For weapons and tracked combat vehicles,  
12          \$1,997,304,000.  
13          (4) For ammunition, \$1,413,305,000.  
14          (5) For other procurement, \$4,365,246,000.



1–2

**SEC. 102. NAVY AND MARINE CORPS.**

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement for the Navy as follows:

(1) For aircraft, \$9,009,948,000.

(2) For weapons, including missiles and torpedoes, \$2,233,534,000.

(3) For shipbuilding and conversion, \$11,729,984,000.

(4) For other procurement, \$4,739,143,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement for the Marine Corps in the amount of \$1,123,499,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement of ammunition for the Navy and the Marine Corps in the amount of \$924,355,000.

**SEC. 103. AIR FORCE.**

Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement for the Air Force as follows:

(1) For aircraft, \$12,035,151,000.

(2) For ammunition, \$1,284,725,000.

(3) For missiles, \$4,298,505,000.

(4) For other procurement, \$11,631,859,000.

**SEC. 104. DEFENSE-WIDE ACTIVITIES.**

Funds are hereby authorized to be appropriated for fiscal year 2004 for Defense-wide procurement in the amount of \$3,768,506,000.

**Subtitle B—Army Programs****SEC. 111. STRYKER VEHICLE PROGRAM.**

(a) LIMITATION.—Of the funds authorized to be appropriated under section 101 for procurement for the Army for fiscal year 2004 that are available for the Stryker vehicle program, not more than 80 percent may be obligated until—

(1) the Secretary of the Army has submitted to the Deputy Secretary of Defense the report specified in subsection (b);



1–3

1 (2) the Secretary of Defense has submitted to the con-  
2 gressional defense committees the report referred to in sub-  
3 section (c); and

4 (3) a period of 30 days has elapsed after the date of  
5 the receipt by those committees of the report and certifi-  
6 cation under paragraph (2).

7 (b) SECRETARY OF THE ARMY REPORT.—The report re-  
8 ferred to in subsection (a)(1) is the report required to be sub-  
9 mitted by the Secretary of the Army to the Deputy Secretary  
10 of Defense not later than July 8, 2003, that identifies options  
11 for modifications to the equipment and configuration of the  
12 Army brigades designated as “Stryker brigade combat teams”  
13 to assure that those brigades, after incorporating such modi-  
14 fications, provide—

15 (1) a higher level of combat capability and sustain-  
16 ability;

17 (2) a capability across a broader spectrum of combat  
18 operations; and

19 (3) a capability to be employed independently of high-  
20 er-level command formations and support.

21 (c) SECRETARY OF DEFENSE REPORT.—The Secretary of  
22 Defense shall transmit to the congressional defense committees,  
23 not later than 30 days after the date of the receipt by the Dep-  
24 uty Secretary of Defense of the report of the Secretary of the  
25 Army referred to in subsection (b), the modification options  
26 identified by the Secretary of the Army for purposes of that re-  
27 port. The Secretary of Defense shall include any comments that  
28 may be applicable to the analysis of the Secretary of the  
29 Army’s report.

30 **SEC. 112. CH-47 HELICOPTER PROGRAM.**

31 (a) REQUIREMENT FOR STUDY.—The Secretary of the  
32 Army shall conduct a study of the feasibility and the costs and  
33 benefits of providing for the participation of a second source  
34 in the production of gears for the helicopter transmissions in-  
35 corporated into CH-47 helicopters to be procured by the Army  
36 with funds authorized to be appropriated by this Act.



(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study under subsection (a).

## Subtitle C—Navy Programs

### **SEC. 121. MULTIYEAR PROCUREMENT AUTHORITY FOR F/A-18 AIRCRAFT PROGRAM.**

The Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2005 program year, for procurement of aircraft in the F/A-18E, F/A-18F, and EA-18G configurations. The total number of aircraft procured through a multiyear contract under this section may not exceed 234.

### **SEC. 122. MULTIYEAR PROCUREMENT AUTHORITY FOR TACTICAL TOMAHAWK CRUISE MISSILE PROGRAM.**

(a) AUTHORITY.—The Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2004 program year, for procurement of Tactical Tomahawk cruise missiles. The total number of missiles procured through a multiyear contract under this section shall be determined by the Secretary of the Navy, based upon the funds available, but not to exceed 900 in any year.

(b) TACTICAL TOMAHAWK CRUISE MISSILES.—The Secretary of the Navy may not enter into a contract authorized by subsection (a) until the Secretary—

(1) determines on the basis of operational testing that the Tactical Tomahawk Cruise Missile is effective for fleet use; and

(2) submits notice of such determination to the congressional defense committees.

### **SEC. 123. MULTIYEAR PROCUREMENT AUTHORITY FOR VIRGINIA CLASS SUBMARINE PROGRAM.**

(a) AUTHORITY.—The Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year





1–5

1 2004 program year, for procurement of Virginia-class sub-  
2 marines.

3 (b) LIMITATION.—The Secretary of the Navy may not  
4 enter into a contract authorized by subsection (a) until—

5 (1) the Secretary submits to the congressional defense  
6 committees a certification that the Secretary has made  
7 each of the findings with respect to such contract specified  
8 in subsection (a) of section 2306b of title 10, United States  
9 Code; and

10 (2) a period of 30 days has elapsed after the date of  
11 the transmission of such certification.

12 (c) APPLICABILITY OF SHIPBUILDER TEAMING LAW.—  
13 Paragraphs (2)(A), (3), and (4) of section 121(b) of the Na-  
14 tional Defense Authorization Act for Fiscal Year 1998 (Public  
15 Law 105–85; 111 Stat. 1648) shall apply in the exercise of au-  
16 thority to enter into a multiyear contract under subsection (a).

17 **SEC. 124. MULTIYEAR PROCUREMENT AUTHORITY FOR**  
18 **E–2C AIRCRAFT PROGRAM.**

19 (a) AIRCRAFT.—The Secretary of the Navy may, in ac-  
20 cordance with section 2306b of title 10, United States Code,  
21 enter into a multiyear contract, beginning with the fiscal year  
22 2004 program year, for procurement of E–2C and TE–2C air-  
23 craft.

24 (b) ENGINES.—The Secretary of the Navy may, in accord-  
25 ance with section 2306b of title 10, United States Code, enter  
26 into a multiyear contract, beginning with the fiscal year 2004  
27 program year, for procurement of engines for aircraft in the E–  
28 2C or TE–2C configuration.

29 (c) LIMITATION ON TERM OF CONTRACTS.—Notwith-  
30 standing subsection (k) of section 2306b of title 10, United  
31 States Code, a contract under this section may not be for a pe-  
32 riod in excess of four program years.

33 **SEC. 125. MULTIYEAR PROCUREMENT AUTHORITY FOR**  
34 **PHALANX CLOSE IN WEAPON SYSTEM PRO-**  
35 **GRAM.**

36 The Secretary of the Navy may, in accordance with section  
37 2306b of title 10, United States Code, enter into a multiyear



1 contract, beginning with the fiscal year 2004 program year, for  
2 procurement for the Phalanx Close In Weapon System pro-  
3 gram, Block 1B.

4 **SEC. 126. PILOT PROGRAM FOR FLEXIBLE FUNDING OF**  
5 **CRUISER CONVERSIONS AND OVERHAULS.**

6 (a) ESTABLISHMENT.—The Secretary of the Navy may  
7 carry out a pilot program of flexible funding of conversions and  
8 overhauls of cruisers of the Navy in accordance with this sec-  
9 tion.

10 (b) AUTHORITY.—Under the pilot program, the Secretary  
11 may, subject to subsection (d), transfer amounts described in  
12 subsection (c) to the appropriation for the Navy for procure-  
13 ment for shipbuilding and conversion for any fiscal year to con-  
14 tinue to provide funds for any conversion or overhaul of a  
15 cruiser of the Navy for which funds were initially provided from  
16 the appropriation to which transferred.

17 (c) FUNDS AVAILABLE FOR TRANSFER.—The amounts  
18 available for transfer under this section are amounts appro-  
19 priated to the Navy for any fiscal year after fiscal year 2003  
20 and before fiscal year 2013 for the following purposes:

21 (1) For procurement, as follows:

22 (A) For shipbuilding and conversion.

23 (B) For weapons procurement.

24 (C) For other procurement.

25 (2) For operation and maintenance.

26 (d) LIMITATIONS.—(1) A transfer may be made with re-  
27 spect to a cruiser under this section only to meet either (or  
28 both) of the following requirements:

29 (A) An increase in the size of the workload for conver-  
30 sion or overhaul to meet existing requirements for the  
31 cruiser.

32 (B) A new conversion or overhaul requirement result-  
33 ing from a revision of the original baseline conversion or  
34 overhaul program for the cruiser.

35 (2) A transfer may not be made under this section before  
36 the date that is 30 days after the date on which the Secretary  
37 of the Navy transmits to the congressional defense committees



1–7

1 a written notification of the intended transfer. The notification  
2 shall include the following matters:

3 (A) The purpose of the transfer.

4 (B) The amounts to be transferred.

5 (C) Each account from which the funds are to be  
6 transferred.

7 (D) Each program, project, or activity from which the  
8 funds are to be transferred.

9 (E) Each account to which the funds are to be trans-  
10 ferred.

11 (F) A discussion of the implications of the transfer for  
12 the total cost of the cruiser conversion or overhaul program  
13 for which the transfer is to be made.

14 (e) MERGER OF FUNDS.—Amounts transferred to an ap-  
15 propriation with respect to the conversion or overhaul of a  
16 cruiser under this section shall be credited to and merged with  
17 other funds in the appropriation to which transferred and shall  
18 be available for the conversion or overhaul of such cruiser for  
19 the same period as the appropriation to which transferred.

20 (f) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—  
21 The authority to transfer funds under this section is in addi-  
22 tion to any other authority provided by law to transfer appro-  
23 priated funds and is not subject to any restriction, limitation,  
24 or procedure that is applicable to the exercise of any such other  
25 authority.

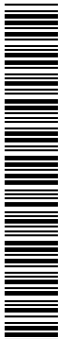
26 (g) FINAL REPORT.—Not later than October 1, 2011, the  
27 Secretary of the Navy shall submit to the congressional defense  
28 committees a report containing the Secretary's evaluation of  
29 the efficacy of the authority provided under this section.

30 (h) TERMINATION OF PROGRAM.—No transfer may be  
31 made under this section after September 30, 2012.

## 32 **Subtitle D—Air Force Programs**

### 33 **SEC. 131. ELIMINATION OF QUANTITY LIMITATIONS ON** 34 **MULTIYEAR PROCUREMENT AUTHORITY** 35 **FOR C-130J AIRCRAFT.**

36 Section 131(a) of the Bob Stump National Defense Au-  
37 thorization Act for Fiscal Year 2003 (Public Law 107–314;



1–8

1 116 Stat. 2475) is amended by striking “up to 40 C-130J air-  
2 craft in the CC-130J configuration and up to 24 C-130J air-  
3 craft in the KC-130J configuration” and inserting “C-130J  
4 aircraft in the CC-130J and KC-130J configurations”.

5 **SEC. 132. LIMITATION ON RETIRING C-5 AIRCRAFT.**

6 (a) LIMITATION.—The Secretary of the Air Force may not  
7 proceed with a decision to retire C-5A aircraft from the active  
8 inventory of the Air Force in any number that would reduce  
9 the total number of such aircraft in the active inventory below  
10 112 until—

11 (1) the Air Force has modified a C-5A aircraft to the  
12 configuration referred to as the Reliability Enhancement  
13 and Reengining Program (RERP) configuration, as  
14 planned under the C-5 System Development and Dem-  
15 onstration program as of May 1, 2003; and

16 (2) the Director of Operational Test and Evaluation of  
17 the Department of Defense—

18 (A) conducts an operational evaluation of that air-  
19 craft, as so modified; and

20 (B) provides to the Secretary of Defense and the  
21 congressional defense committees an operational assess-  
22 ment.

23 (b) OPERATIONAL EVALUATION.—An operational evalua-  
24 tion for purposes of paragraph (2)(A) of subsection (a) is an  
25 evaluation, conducted during operational testing and evaluation  
26 of the aircraft, as so modified, of the performance of the air-  
27 craft with respect to reliability, maintainability, and availability  
28 and with respect to critical operational issues.

29 (c) OPERATIONAL ASSESSMENT.—An operational assess-  
30 ment for purposes of paragraph (2)(B) of subsection (a) is an  
31 operational assessment of the program to modify C-5A aircraft  
32 to the configuration referred to in subsection (a)(1) regarding  
33 both overall suitability and deficiencies of the program to im-  
34 prove performance of the C-5A aircraft relative to require-  
35 ments and specifications for reliability, maintainability, and  
36 availability of that aircraft as in effect on May 1, 2003.



1   **SEC. 133. LIMITATION ON OBLIGATION OF FUNDS FOR**  
2   **PROCUREMENT OF F/A-22 AIRCRAFT.**

3       (a) LIMITATION.—Of the amount appropriated for fiscal  
4   year 2004 for procurement of F/A-22 aircraft, \$136,000,000  
5   may not be obligated until the Under Secretary of Defense for  
6   Acquisition, Technology, and Logistics submits to the congres-  
7   sional defense committees the Under Secretary’s certification  
8   that—

9       (1) the five aircraft designated to participate in the  
10   initial operational test and evaluation program for the F/  
11   A-22 aircraft, plus the avionics software test aircraft, have  
12   each been equipped with the avionics software operational  
13   flight program that is configured for initial operational test  
14   and evaluation; and

15       (2) before the commencement of that initial oper-  
16   ational test and evaluation program, the six aircraft speci-  
17   fied in paragraph (1) demonstrate, on average, a mean  
18   time between covered avionics anomalies of at least five  
19   hours.

20       (c) COVERED AVIONICS ANOMALIES.—For purposes of  
21   subsection (a), the term “covered avionics anomalies” means  
22   any of the following:

23       (1) A software event referred to as a Type 1 failure.

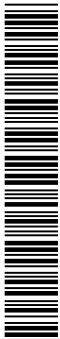
24       (2) A software event referred to as a Type 2 failure.

25       (3) A hardware event referred to as a Type 5 failure.

26       (c) CONTINGENCY WAIVER AUTHORITY.—If the Under  
27   Secretary notifies the Secretary of Defense that the Under Sec-  
28   retary is unable to make the certification described in sub-  
29   section (a), the Secretary may waive the limitation under that  
30   subsection. Upon making such a waiver—

31       (1) the Secretary of Defense shall notify the congres-  
32   sional defense committees of the waiver and of the reasons  
33   therefor; and

34       (2) the funds described in subsection (a) may then be  
35   obligated, by reason of such waiver, after the end of the 30-  
36   day period beginning on the date on which the Secretary’s  
37   notification is received by those committees.



1–10

1   **SEC. 134. AIRCRAFT FOR PERFORMANCE OF AERIAL RE-**  
2   **FUELING MISSION.**

3       (a) RESTRICTION ON RETIREMENT OF KC–135E AIR-  
4   CRAFT.—The Secretary of the Air Force shall ensure that the  
5   number of KC–135E aircraft of the Air Force that are retired  
6   in fiscal year 2004, if any, does not exceed 12 such aircraft.

7       (b) REQUIRED ANALYSIS.—Not later than March 1, 2004,  
8   the Secretary of the Air Force shall submit to the congressional  
9   defense committees an analysis of alternatives for meeting the  
10   aerial refueling requirements that the Air Force has the mis-  
11   sion to meet. The Secretary shall provide for the analysis to be  
12   performed by a federally funded research and development cen-  
13   ter or another entity independent of the Department of De-  
14   fense.

15   **SEC. 135. PROCUREMENT OF TANKER AIRCRAFT.**

16       (a) LEASED AIRCRAFT.—The Secretary of the Air Force  
17   may lease no more than 20 tanker aircraft under the multiyear  
18   aircraft lease pilot program referred to in subsection (d).

19       (b) MULTIYEAR PROCUREMENT AUTHORITY.—(1) Begin-  
20   ning with the fiscal year 2004 program year, the Secretary of  
21   the Air Force may, in accordance with section 2306b of title  
22   10, United States Code, enter into a multiyear contract for the  
23   purchase of tanker aircraft necessary to meet the requirements  
24   of the Air Force for which leasing of tanker aircraft is provided  
25   for under the multiyear aircraft lease pilot program but for  
26   which the number of tanker aircraft leased under the authority  
27   of subsection (a) is insufficient.

28       (2) The total number of tanker aircraft purchased through  
29   a multiyear contract under this subsection may not exceed 80.

30       (3) Notwithstanding subsection (k) of section 2306b of  
31   title 10, United States Code, a contract under this subsection  
32   may be for any period not in excess of 10 program years.

33       (4) A multiyear contract under this subsection may be ini-  
34   tiated or continued for any fiscal year for which sufficient  
35   funds are available to pay the costs of such contract for that  
36   fiscal year, without regard to whether funds are available to  
37   pay the costs of such contract for any subsequent fiscal year.



1–11

1 Such contract shall provide, however, that performance under  
2 the contract during the subsequent year or years of the con-  
3 tract is contingent upon the appropriation of funds and shall  
4 also provide for a cancellation payment to be made to the con-  
5 tractor if such appropriations are not made.

6 (c) STUDY OF LONG-TERM TANKER AIRCRAFT MAINTENANCE AND TRAINING REQUIREMENTS.—(1) The Secretary of  
7 Defense shall carry out a study to identify alternative means  
8 for meeting the long-term requirements of the Air Force for—

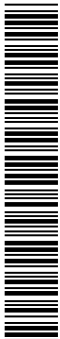
9 (A) the maintenance of tanker aircraft leased under  
10 the multiyear aircraft lease pilot program or purchased  
11 under subsection (b); and

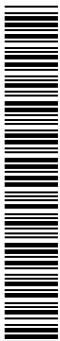
12 (B) training in the operation of tanker aircraft leased  
13 under the multiyear aircraft lease pilot program or pur-  
14 chased under subsection (b).

15 (2) Not later than April 1, 2004, the Secretary of Defense  
16 shall submit a report on the results of the study to the congres-  
17 sional defense committees.

18 (d) MULTIYEAR AIRCRAFT LEASE PILOT PROGRAM DEFINED.—In this section, the term “multiyear aircraft lease  
19 pilot program” means the aerial refueling aircraft program au-  
20 thorized under section 8159 of the Department of Defense Ap-  
21 propriations Act, 2002 (division A of Public Law 107–117; 115  
22 Stat. 2284).

23 (e) SENSE OF CONGRESS.—It is the sense of Congress  
24 that, in budgeting for a program to acquire new tanker aircraft  
25 for the Air Force, the President should ensure that sufficient  
26 budgetary resources are provided to the Department of Defense  
27 to fully execute the program and to further ensure that all  
28 other critical defense programs are fully and properly funded.  
29  
30







2-1

1 **TITLE II—RESEARCH, DEVELOP-**  
2 **MENT, TEST, AND EVALUATION**

**Subtitle A—Authorization of Appropriations**

Sec. 201. Authorization of appropriations.

Sec. 202. Amount for defense science and technology.

**Subtitle B—Program Requirements, Restrictions, and Limitations**

Sec. 211. Collaborative program for development of electromagnetic gun technology.

Sec. 212. Leadership and duties of Department of Defense Test Resource Management Center.

Sec. 213. Development of the Joint Tactical Radio System.

Sec. 214. Future Combat Systems.

Sec. 215. Extension of reporting requirement for RAH-66 Comanche aircraft program.

Sec. 216. Studies of fleet platform architectures for the Navy.

**Subtitle C—Ballistic Missile Defense**

Sec. 221. Enhanced flexibility for ballistic missile defense systems.

Sec. 222. Fielding of ballistic missile defense capabilities.

Sec. 223. Oversight of procurement, performance criteria, and operational test plans for ballistic missile defense programs.

Sec. 224. Renewal of authority to assist local communities affected by ballistic missile defense system test bed.

Sec. 225. Prohibition on use of funds for nuclear-armed interceptors in missile defense systems.

Sec. 226. Follow-on research, development, test, and evaluation related to system improvements for missile defense programs transferred to military departments.

**Subtitle D—Other Matters**

Sec. 231. Global Research Watch program in the Office of the Director of Defense Research and Engineering.

Sec. 232. Defense Advanced Research Projects Agency biennial strategic plan.

Sec. 233. Enhancement of authority of Secretary of Defense to support science, mathematics, engineering, and technology education.

Sec. 234. Department of Defense program to expand high-speed, high-bandwidth capabilities for network-centric operations.

Sec. 235. Blue forces tracking initiative.

3 **Subtitle A—Authorization of**  
4 **Appropriations**

5 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

6 Funds are hereby authorized to be appropriated for fiscal  
7 year 2004 for the use of the Department of Defense for re-  
8 search, development, test, and evaluation as follows:

9 (1) For the Army, \$9,544,833,000.



2-2

1 (2) For the Navy, \$14,845,503,000.

2 (3) For the Air Force, \$20,555,667,000.

3 (4) For Defense-wide activities, \$18,438,718,000, of  
4 which \$286,661,000 is authorized for the Director of Oper-  
5 ational Test and Evaluation.

6 **SEC. 202. AMOUNT FOR DEFENSE SCIENCE AND TECH-**  
7 **NOLOGY.**

8 (a) FISCAL YEAR 2004.—Of the amounts authorized to be  
9 appropriated by section 201, \$11,029,557,000 shall be available  
10 for the Defense Science and Technology Program, including  
11 basic research, applied research, and advanced technology de-  
12 velopment projects.

13 (b) BASIC RESEARCH, APPLIED RESEARCH, AND AD-  
14 VANCED TECHNOLOGY DEVELOPMENT DEFINED.—For pur-  
15 poses of this section, the term “basic research, applied re-  
16 search, and advanced technology development” means work  
17 funded in program elements for defense research and develop-  
18 ment under Department of Defense category 6.1, 6.2, or 6.3.

19 **Subtitle B—Program Requirements,**  
20 **Restrictions, and Limitations**

21 **SEC. 211. COLLABORATIVE PROGRAM FOR DEVELOP-**  
22 **MENT OF ELECTROMAGNETIC GUN TECH-**  
23 **NOLOGY.**

24 (a) PROGRAM REQUIRED.—The Secretary of Defense shall  
25 establish and carry out a collaborative program for evaluation  
26 and demonstration of advanced technologies and concepts for  
27 advanced gun systems that use electromagnetic propulsion for  
28 direct and indirect fire applications.

29 (b) DESCRIPTION OF PROGRAM.—The program under sub-  
30 section (a) shall be carried out collaboratively pursuant to a  
31 memorandum of agreement to be entered into among the Direc-  
32 tor of Defense Research and Engineering, the Secretary of the  
33 Army, the Secretary of the Navy, the Director of the Defense  
34 Advanced Research Projects Agency, and other appropriate of-  
35 ficials of the Department of Defense, as determined by the Sec-  
36 retary. The program shall include the following activities:



## 2-3

(1) Identification of technical objectives, quantified technical barriers, and enabling technologies associated with development of the objective electromagnetic gun systems envisioned to meet the needs of each of the Armed Forces and, in so doing, identification of opportunities for development of components or subsystems common to those envisioned gun systems.

(2) Preparation of a plan and schedule for development of electromagnetic gun systems for military applications, which—

(A) includes the programs currently planned within the Department of Defense;

(B) describes how enabling technologies common to such programs are developed and utilized; and

(C) provides estimated dates for decision points, prototype demonstrations, and transitions of technologies to acquisition programs.

(3) Identification of a strategy for the participation of industry in the program.

(c) MATTERS INCLUDED.—The advanced technologies and concepts included under the program may include, but are not limited to, the following:

(1) Advanced electrical power, energy storage, and switching systems.

(2) Electromagnetic launcher materials and construction techniques for long barrel life.

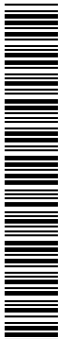
(3) Guidance and control systems for electromagnetically launched projectiles.

(4) Advanced projectiles and other munitions for electromagnetic gun systems.

(5) Hypervelocity terminal effects.

(d) TRANSITION OF TECHNOLOGIES.—The Secretary of Defense shall encourage the transition of technologies developed under the program under subsection (a) into appropriate acquisition programs of the military departments.

(e) REPORT.—Not later than March 31, 2004, the Director of Defense Research and Engineering, in collaboration with



2-4

the other officials who entered into the memorandum of agreement under subsection (b), shall submit a report to the congressional defense committees on the implementation of the program under subsection (a). The report shall include the following:

(1) A description of the memorandum of agreement entered into under subsection (b).

(2) The plan and schedule required by subsection (b)(2).

(3) A description of the goals and objectives of the program.

(4) Identification of funding required for fiscal years 2004 and 2005 and for the future-years defense program to carry out the program.

(5) A description of a plan for industry participation in the program.

**SEC. 212. LEADERSHIP AND DUTIES OF DEPARTMENT OF DEFENSE TEST RESOURCE MANAGEMENT CENTER.**

(a) AUTHORITY TO SELECT CIVILIAN EMPLOYEE AS DIRECTOR.—Subsection (b)(1) of section 196 of title 10, United States Code, is amended—

(1) by striking “on active duty. The Director” and inserting “on active duty or from among senior civilian officers and employees of the Department of Defense. A commissioned officer serving as the Director”; and

(2) by adding at the end the following: “A civilian officer or employee serving as the Director, while so serving, has a pay level equivalent in grade to lieutenant general.”.

(b) EXPANSION OF DUTIES OF DIRECTOR.—(1) Subsection (c)(1)(B) of such section is amended by inserting after “Department of Defense” the following: “, other than budgets and expenditures for activities described in section 139(i) of this title”.

(2) Subsection (e)(1) of such section is amended—

(A) by striking “, the Director of Operational Test and Evaluation,”; and



2-5

1 (B) by striking “, Director’s, or head’s” and inserting  
2 “or Defense Agency head’s”.

3 **SEC. 213. DEVELOPMENT OF THE JOINT TACTICAL**  
4 **RADIO SYSTEM.**

5 (a) PLAN FOR MANAGEMENT OF DEVELOPMENT PRO-  
6 GRAM.—The Secretary of Defense shall develop a plan for im-  
7 plementation of management of the development program for  
8 the Joint Tactical Radio System under a single joint program  
9 office. As part of such plan, the Secretary shall designate an  
10 office for such purpose. The Secretary shall include in the plan  
11 measures to ensure that—

12 (1) the Joint Tactical Radio Program has a program  
13 management structure that provides strong and effective  
14 joint management;

15 (2) the head of the joint program office has sufficient  
16 control and authority to properly execute that development  
17 program; and

18 (3) effective processes are established to resolve dis-  
19 putes between military departments with respect to that  
20 program.

21 (b) PROGRAM DEVELOPMENT.—The Secretary shall pro-  
22 vide that, subject to the authority, direction, and control of the  
23 Secretary, the head of the joint program office designated  
24 under subsection (a) shall—

25 (1) establish and control the systems engineering and  
26 the performance and design specifications for the Joint  
27 Tactical Radio System;

28 (2) establish and control the standards for develop-  
29 ment of software and equipment for that system; and

30 (3) establish and control the standards for operation  
31 of that system.

32 (c) PROGRAM REQUIREMENTS.—The Secretary shall  
33 ensure—

34 (1) that there is developed and implemented a single,  
35 unified concept of operations for all users of the Joint Tac-  
36 tical Radio System; and



2-6

1 (2) that the responsibility for the coordination of the  
2 operational requirements for that system is vested in the  
3 Chairman of the Joint Chiefs of Staff, with the participa-  
4 tion of the Joint Tactical Radio System program office.

5 (d) REPORT ON PLAN.—The Secretary shall submit the  
6 plan required by subsection (a) to the Committees on Armed  
7 Services of the Senate and House of Representatives not later  
8 than February 1, 2004.

9 (e) IMPLEMENTATION DEADLINE.—The Secretary shall  
10 implement the plan required by subsection (a) not later than  
11 December 1, 2004.

12 **SEC. 214. FUTURE COMBAT SYSTEMS.**

13 (a) LIMITATION.—Of the funds authorized to be appro-  
14 priated under section 201(1) for development and demonstra-  
15 tion of systems for the Future Combat Systems program,  
16 \$170,000,000 may not be obligated or expended until 30 days  
17 after the Secretary of the Army submits to the congressional  
18 defense committees a report on such program. The report shall  
19 include the following:

20 (1) The findings and conclusions of—

21 (A) the review of the Future Combat Systems pro-  
22 gram carried out by the independent panel at the direc-  
23 tion of the Secretary of Defense; and

24 (B) the milestone B review of the Future Combat  
25 Systems program carried out by the Defense Acquisi-  
26 tion Board.

27 (2) For each of the three projects requested under  
28 program element 64645A, a breakdown of the costs of that  
29 project for fiscal year 2004 at a level of detail sufficient to  
30 justify the amount requested for that project in the budget  
31 submitted by the President.

32 (b) SEPARATE PROGRAM ELEMENTS.—For fiscal years be-  
33 ginning with 2004, the Secretary of Defense shall ensure that  
34 the following matters (referred to as projects under program  
35 element 64645A in the budget justification materials submitted  
36 in support of the President's budget for fiscal year 2004) are



2-7

1 each planned, programmed, and budgeted for as a separate,  
2 dedicated program element:

- 3 (1) The Future Combat Systems project.
- 4 (2) The Networked Fires System Technology project.
- 5 (3) The Objective Force Indirect Fires project.

6 (c) ANNUAL REPORT.—At the same time that the Presi-  
7 dent submits the budget for a fiscal year to Congress under  
8 section 1105(a) of title 31, United States Code, the Secretary  
9 of the Army shall submit to the congressional defense commit-  
10 tees a report on the programs and projects comprising the Fu-  
11 ture Combat Systems program. The report shall include—

- 12 (1) for each such program or project, a breakdown of  
13 the costs of that program or project for that fiscal year at  
14 a level of detail sufficient to justify the amount requested  
15 for that program or project in that budget; and  
16 (2) any updated analysis of alternatives for the pro-  
17 gram.

18 **SEC. 215. EXTENSION OF REPORTING REQUIREMENT**  
19 **FOR RAH-66 COMANCHE AIRCRAFT PRO-**  
20 **GRAM.**

21 Section 211 of the Bob Stump National Defense Author-  
22 ization Act for Fiscal Year 2003 (Public Law 107-314; 116  
23 Stat. 2479) is amended in subsection (a) by inserting “and fis-  
24 cal year 2004” after “fiscal year 2003”.

25 **SEC. 216. STUDIES OF FLEET PLATFORM ARCHITEC-**  
26 **TURES FOR THE NAVY.**

27 (a) INDEPENDENT STUDIES.—(1) The Secretary of De-  
28 fense shall provide for the performance of two independent  
29 studies of alternative future fleet platform architectures for the  
30 Navy.

31 (2) The Secretary shall forward the results of each study  
32 to the congressional defense committees not later than January  
33 15, 2005.

34 (3) Each such study shall be submitted both in unclassi-  
35 fied, and to the extent necessary, in classified versions.



1 (b) ENTITIES TO PERFORM STUDIES.—The Secretary of  
2 Defense shall provide for the studies under subsection (a) to be  
3 performed as follows:

4 (1) One study shall be performed by a federally funded  
5 research and development center.

6 (2) The other study shall be performed by the Office  
7 of Force Transformation within the Office of the Secretary  
8 of Defense and shall include participants from (A) the Of-  
9 fice of Net Assessment within the Office of the Secretary  
10 of Defense, (B) the Department of the Navy, and (C) the  
11 Joint Staff.

12 (c) PERFORMANCE OF STUDIES.—(1) The Secretary of  
13 Defense shall require the two studies under this section to be  
14 conducted independently of each other.

15 (2) In performing a study under this section, the organiza-  
16 tion performing the study, while being aware of the current and  
17 projected fleet platform architectures, shall not be limited by  
18 the current or projected fleet platform architecture and shall  
19 consider the following:

20 (A) The National Security Strategy of the United  
21 States.

22 (B) Potential future threats to the United States and  
23 to United States naval forces.

24 (C) The traditional roles and missions of United  
25 States naval forces.

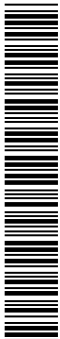
26 (D) Alternative roles and missions for United States  
27 naval forces.

28 (E) Other government and non-government analyses  
29 that would contribute to the study through variations in  
30 study assumptions or potential scenarios.

31 (F) The role of evolving technology on future naval  
32 forces.

33 (G) Opportunities for reduced manning and unmanned  
34 ships and vehicles in future naval forces.

35 (d) STUDY RESULTS.—The results of each study under  
36 this section shall—





(1) present the alternative fleet platform architectures considered, with assumptions and possible scenarios identified for each;

(2) provide for presentation of minority views of study participants; and

(3) for the recommended architecture, provide—

(A) the numbers, kinds, and sizes of vessels, the numbers and types of associated manned and unmanned vehicles, and the basic capabilities of each of those platforms; and

(B) other information needed to understand that architecture in basic form and the supporting analysis.

### **Subtitle C—Ballistic Missile Defense**

#### **SEC. 221. ENHANCED FLEXIBILITY FOR BALLISTIC MISSILE DEFENSE SYSTEMS.**

(a) FLEXIBILITY FOR SPECIFICATION OF PROGRAM ELEMENTS.—Subsection (a) of section 223 of title 10, United States Code, is amended—

(1) by inserting “BY PRESIDENT” in the subsection heading after “SPECIFIED”;

(2) by striking “program elements governing functional areas as follows:” and inserting “such program elements as the President may specify.”; and

(3) by striking paragraphs (1) through (6).

(b) CONFORMING AMENDMENTS.—(1) Subsection (c) of such section is amended by striking “for each program element specified in subsection (a)” and inserting “for a fiscal year for any program element specified for that fiscal year pursuant to subsection (a)”.

(2) Subsection (c)(3) of section 232 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1037; 10 U.S.C. 2431 note) is amended by striking “each functional area” and all that follows through “subsection (b),” and inserting “each then-current program element for ballistic missile defense systems in effect pursuant to subsection (a) or (b)”.



(c) AMENDMENTS RELATING TO CHANGES IN ACQUISITION TERMINOLOGY.—(1) Section 223(b)(2) of title 10, United States Code, is amended by striking “means the development phase whose” and inserting “means the period in the course of an acquisition program during which the”.

(2) Subsection (d)(1) of section 232 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1037; 10 U.S.C. 2431 note) is amended by striking “, as added by subsection (b)”.

**SEC. 222. FIELDING OF BALLISTIC MISSILE DEFENSE CAPABILITIES.**

Funds authorized to be appropriated under section 201(4) for the Missile Defense Agency may be used for the development and fielding of an initial set of ballistic missile defense capabilities.

**SEC. 223. OVERSIGHT OF PROCUREMENT, PERFORMANCE CRITERIA, AND OPERATIONAL TEST PLANS FOR BALLISTIC MISSILE DEFENSE PROGRAMS.**

(a) PROCUREMENT.—(1) Chapter 9 of title 10, United States Code, is amended by inserting after section 223 the following new section:

**“§ 223a. Ballistic missile defense programs: procurement**

**“(a) BUDGET JUSTIFICATION MATERIALS.—**In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the Secretary of Defense shall specify, for each ballistic missile defense system element for which the Missile Defense Agency is engaged in planning for production and initial fielding, the following information:

“(1) The production rate capabilities of the production facilities planned to be used for production of that element.

“(2) The potential date of availability of that element for initial fielding.

“(3) The estimated date on which the administration of the acquisition of that element is to be transferred from



1 the Director of the Missile Defense Agency to the Secretary  
2 of a military department.

3 “(b) FUTURE-YEARS DEFENSE PROGRAM.—The Secretary  
4 of Defense shall include in the future-years defense program  
5 submitted to Congress each year under section 221 of this title  
6 an estimate of the amount necessary for procurement for each  
7 ballistic missile defense system element, together with a discus-  
8 sion of the underlying factors and reasoning justifying the esti-  
9 mate.

10 “(c) PERFORMANCE CRITERIA.— The Director of the Mis-  
11 sile Defense Agency shall include in the performance criteria  
12 prescribed for planned development phases of the ballistic mis-  
13 sile defense system and its elements a description of the in-  
14 tended effectiveness of each such phase against foreign adver-  
15 sary capabilities.

16 “(d) TESTING PROGRESS.—The Director of Operational  
17 Test and Evaluation shall make available for review by the con-  
18 gressional defense committees the developmental and oper-  
19 ational test plans established to assess the effectiveness of the  
20 ballistic missile defense system and its elements with respect to  
21 the performance criteria described in subsection (c).”.

22 (2) The table of sections at the beginning of such chapter  
23 is amended by inserting after the item relating to section 223  
24 the following new item:

“223a. Ballistic missile defense programs: procurement.”.

25 (b) IMPLEMENTATION OF REQUIREMENT FOR AVAIL-  
26 ABILITY OF TEST PLANS.—Subsection (d) of section 223a of  
27 title 10, United States Code, as added by subsection (a), shall  
28 be implemented not later than March 1, 2004.

29 **SEC. 224. RENEWAL OF AUTHORITY TO ASSIST LOCAL**  
30 **COMMUNITIES AFFECTED BY BALLISTIC**  
31 **MISSILE DEFENSE SYSTEM TEST BED.**

32 Section 235(b) of the National Defense Authorization Act  
33 for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1041)  
34 is amended—

35 (1) in paragraph (1), by inserting “or 2004” after  
36 “for fiscal year 2002”; and



1 (2) by adding at the end the following new paragraph:

2 “(3) Not later than 60 days after the date of the enact-  
3 ment of the National Defense Authorization Act for Fiscal  
4 Year 2004, the Secretary of Defense shall submit to the con-  
5 gressional defense committees a report on the community as-  
6 sistance projects under this subsection that are to be supported  
7 using funds referred to in paragraph (1) for fiscal year 2004.  
8 The report shall include, for each such project, a description  
9 of the project and an estimate of the total cost of the project.”.

10 **SEC. 225. PROHIBITION ON USE OF FUNDS FOR NU-**  
11 **CLEAR-ARMED INTERCEPTORS IN MISSILE**  
12 **DEFENSE SYSTEMS.**

13 No funds authorized to be appropriated for the Depart-  
14 ment of Defense by this Act may be obligated or expended for  
15 research, development, test, and evaluation, procurement, or  
16 deployment of nuclear-armed interceptors in a missile defense  
17 system.

18 **SEC. 226. FOLLOW-ON RESEARCH, DEVELOPMENT, TEST,**  
19 **AND EVALUATION RELATED TO SYSTEM IM-**  
20 **PROVEMENTS FOR MISSILE DEFENSE PRO-**  
21 **GRAMS TRANSFERRED TO MILITARY DE-**  
22 **PARTMENTS.**

23 (a) REQUIREMENT FOR DELINEATION OF RESPONSIBILITY  
24 FOR FOLLOW-ON RDT&E.—Subsection (e) of section 224 of  
25 title 10, United States Code, is amended—such section is  
26 amended—

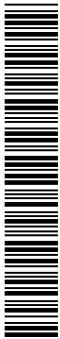
27 (1) by striking “for each” and inserting “before a”;

28 (2) by inserting “is” before “transferred”;

29 (3) by striking “responsibility” and inserting “roles  
30 and responsibilities”; and

31 (4) by striking “remains with the Director” and in-  
32 serting “are clearly delineated”.

33 (b) CONFORMING AMENDMENT.—Subsection (a) of such  
34 section is amended by striking “a Department of Defense mis-  
35 sile defense program described in subsection (b)” and inserting  
36 “the integration of a ballistic missile defense element into the  
37 overall ballistic missile defense architecture”.



2-13

**Subtitle D—Other Matters****SEC. 231. GLOBAL RESEARCH WATCH PROGRAM IN THE  
OFFICE OF THE DIRECTOR OF DEFENSE RE-  
SEARCH AND ENGINEERING.**

(a) PROGRAM REQUIRED.—Chapter 139 of title 10, United States Code, is amended by inserting after section 2364 the following new section:

**“§ 2365. Global Research Watch Program**

“(a) PROGRAM.—The Director of Defense Research and Engineering shall carry out a Global Research Watch program in accordance with this section.

“(b) PROGRAM GOALS.—The goals of the program are as follows:

“(1) To monitor and analyze the basic and applied research activities and capabilities of foreign nations in areas of military interest, including allies and competitors.

“(2) To provide standards for comparison and comparative analysis of research capabilities of foreign nations in relation to the research capabilities of the United States.

“(3) To assist Congress and Department of Defense officials in making investment decisions for research in technical areas where the United States may not be the global leader.

“(4) To identify areas where significant opportunities for cooperative research may exist.

“(5) To coordinate and promote the international cooperative research and analysis activities of each of the armed forces and Defense Agencies.

“(6) To establish and maintain an electronic database on international research capabilities, comparative assessments of capabilities, cooperative research opportunities, and ongoing cooperative programs.

“(c) FOCUS OF PROGRAM.—The program shall be focused on research and technologies at a technical maturity level equivalent to Department of Defense basic and applied research programs.



2-14

1 “(d) COORDINATION.—(1) The Director shall coordinate  
2 the program with the international cooperation and analysis ac-  
3 tivities of the military departments and Defense Agencies.

4 “(2) The Secretaries of the military departments and the  
5 directors of the Defense Agencies shall provide the Director of  
6 Defense Research and Engineering such assistance as the Di-  
7 rector may require for purposes of the program.

8 “(e) CLASSIFICATION OF DATABASE INFORMATION.—In-  
9 formation in electronic databases of the Global Research Watch  
10 program shall be maintained in unclassified form and, as deter-  
11 mined necessary by the Director, in classified form in such  
12 databases.

13 “(f) TERMINATION.—The requirement to carry out the  
14 program under this section shall terminate on September 30,  
15 2006.”.

16 (b) CLERICAL AMENDMENT.—The table of sections at the  
17 beginning of such chapter is amended by inserting after section  
18 2364 the following new item:

“2365. Global Research Watch Program.”.

19 **SEC. 232. DEFENSE ADVANCED RESEARCH PROJECTS**  
20 **AGENCY BIENNIAL STRATEGIC PLAN.**

21 (a) REQUIREMENT FOR PLAN.—Chapter 139 of title 10,  
22 United States Code, is amended by inserting after section 2351  
23 the following new section:

24 **“§ 2352. Defense Advanced Research Projects**  
25 **Agency: biennial strategic plan**

26 “(a) REQUIREMENT FOR STRATEGIC PLAN.—Every other  
27 year, and in time for submission to Congress under subsection  
28 (c), the Director of the Defense Advanced Research Projects  
29 Agency shall prepare a strategic plan for the activities of that  
30 agency.

31 “(b) CONTENTS.—The strategic plan required by sub-  
32 section (a) shall include the following matters:

33 “(1) The long-term strategic goals of that agency.

34 “(2) Identification of the research programs of that  
35 agency that support—

36 “(A) achievement of those strategic goals; and



2-15

1 “(B) exploitation of opportunities that hold the po-  
2 tential for yielding significant military benefits.

3 “(3) The connection of the activities and programs of  
4 that agency to activities and missions of the armed forces.

5 “(4) A technology transition strategy for the programs  
6 of that agency.

7 “(5) A description of the policies of that agency on the  
8 management, organization, and personnel of that agency.

9 “(c) SUBMISSION OF PLAN TO CONGRESS.—The Secretary  
10 of Defense shall submit to Congress the strategic plan most re-  
11 cently prepared under subsection (a) at the same time that the  
12 President submits to Congress the budget for an even-num-  
13 bered fiscal year under section 1105(a) of title 31.”.

14 (b) CLERICAL AMENDMENT.—The table of sections at the  
15 beginning of such chapter is amended by inserting after the  
16 item relating to section 2351 the following new item:

“2352. Defense Advanced Research Projects Agency: biennial strategic  
plan.”.

17 **SEC. 233. ENHANCEMENT OF AUTHORITY OF SEC-**  
18 **RETARY OF DEFENSE TO SUPPORT SCIENCE,**  
19 **MATHEMATICS, ENGINEERING, AND TECH-**  
20 **NOLOGY EDUCATION.**

21 Section 2192 of title 10, United States Code, is  
22 amended—

23 (1) by redesignating subsection (b) as subsection (c);  
24 and

25 (2) by inserting after subsection (a) the following new  
26 subsection (b):

27 “(b)(1) In furtherance of the authority of the Secretary of  
28 Defense under any provision of this chapter or any other provi-  
29 sion of law to support educational programs in science, mathe-  
30 matics, engineering, and technology, the Secretary of Defense  
31 may, unless otherwise specified in such provision—

32 “(A) enter into contracts and cooperative agreements  
33 with eligible entities;

34 “(B) make grants of financial assistance to eligible en-  
35 tities;



1 “(C) provide cash awards and other items to eligible  
2 entities;

3 “(D) accept voluntary services from eligible entities;  
4 and

5 “(E) support national competition judging, other edu-  
6 cational event activities, and associated award ceremonies  
7 in connection with these educational programs.

8 “(2) In this subsection:

9 “(A) The term ‘eligible entity’ includes a department  
10 or agency of the Federal Government, a State, a political  
11 subdivision of a State, an individual, and a not-for-profit or  
12 other organization in the private sector.

13 “(B) The term ‘State’ means any State of the United  
14 States, the District of Columbia, the Commonwealth of  
15 Puerto Rico, Guam, the United States Virgin Islands, the  
16 Commonwealth of the Northern Mariana Islands, American  
17 Samoa, and any other territory or possession of the United  
18 States.”.

19 **SEC. 234. DEPARTMENT OF DEFENSE PROGRAM TO EX-**  
20 **PAND HIGH-SPEED, HIGH-BANDWIDTH CAPA-**  
21 **BILITIES FOR NETWORK-CENTRIC OPER-**  
22 **ATIONS.**

23 (a) IN GENERAL.—The Secretary of Defense shall carry  
24 out a program of research and development to promote the de-  
25 velopment of high-speed, high-bandwidth communications capa-  
26 bilities for support of network-centric operations by the Armed  
27 Forces.

28 (b) PURPOSES.—The purposes of the program required by  
29 subsection (a) are as follows:

30 (1) To accelerate the development and fielding by the  
31 Armed Forces of network-centric operational capabilities  
32 (including expanded use of unmanned vehicles, satellite  
33 communications, and sensors) through the promotion of re-  
34 search and development, and the focused coordination of  
35 programs, to achieve high-speed, high-bandwidth  
36 connectivity to military assets.





2-17

1           (2) To provide for the development of equipment and  
2           technologies for military high-speed, high-bandwidth com-  
3           munications capabilities for support of network-centric op-  
4           erations.

5           (c) DESCRIPTION OF PROGRAM.—In carrying out the pro-  
6           gram of research and development required by subsection (a),  
7           the Secretary shall—

8           (1) identify areas of advanced wireless communications  
9           in which research and development, or the use of emerging  
10          technologies, has significant potential to improve the per-  
11          formance, efficiency, cost, and flexibility of advanced com-  
12          munications systems for support of network-centric oper-  
13          ations;

14          (2) develop a coordinated plan for research and devel-  
15          opment on—

16                (A) improved spectrum access through spectrum-  
17                efficient communications for support of network-centric  
18                operations;

19                (B) high-speed, high-bandwidth communications;

20                (C) networks, including complex ad hoc adaptive  
21                network structures;

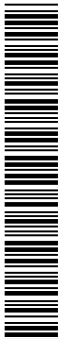
22                (D) communications devices, including efficient re-  
23                ceivers and transmitters;

24                (E) computer software and wireless communica-  
25                tion applications, including robust security and  
26                encryption; and

27                (F) any other matters that the Secretary considers  
28                appropriate for the purposes described in subsection  
29                (b);

30          (3) ensure joint research and development, and pro-  
31          mote joint systems acquisition and deployment, among the  
32          military departments and defense agencies, including the  
33          development of common cross-service technology require-  
34          ments and doctrine, so as to enhance interoperability  
35          among the military services and defense agencies;

36          (4) conduct joint experimentation among the Armed  
37          Forces, and coordinate with the Joint Forces Command, on



2-18

1 experimentation to support the development of network-  
2 centric warfare capabilities from the operational to the  
3 small unit level in the Armed Forces;

4 (5) consult with other Federal entities and with pri-  
5 vate industry to develop cooperative research and develop-  
6 ment efforts, to the extent that such efforts are practicable.

7 (d) REPORT.—(1) The Secretary shall submit to the con-  
8 gressional defense committees, together with the budget jus-  
9 tification materials submitted to Congress in support of the De-  
10 partment of Defense budget for fiscal year 2006 (as submitted  
11 with the budget of the President under section 1105(a) of title  
12 31, United States Code), a report on the activities carried out  
13 under this section through the date on which the report is sub-  
14 mitted.

15 (2) The report under paragraph (1) shall include the fol-  
16 lowing:

17 (A) A description of the research and development ac-  
18 tivities carried out under subsection (a), including the par-  
19 ticular activities carried out under the plan required by  
20 subsection (c)(2).

21 (B) Current and proposed funding for the particular  
22 activities carried out under that plan, as set forth in each  
23 of subparagraphs (A) through (F) of subsection (c)(2).

24 (C) A description of the joint research and develop-  
25 ment activities required by subsection (c)(3).

26 (D) A description of the joint experimentation activi-  
27 ties required by subsection (c)(4).

28 (E) An analysis of the effects on recent military oper-  
29 ations of limitations on communications bandwidth and ac-  
30 cess to radio frequency spectrum.

31 (F) An assessment of the effect of additional resources  
32 on the ability to achieve the purposes described in sub-  
33 section (b).

34 (G) Such recommendations for additional activities  
35 under this section as the Secretary considers appropriate to  
36 meet the purposes described in subsection (b).



1     **SEC. 235. BLUE FORCES TRACKING INITIATIVE.**

2           (a) GOAL.—It shall be a goal of the Department of De-  
3     fense to coordinate fully the various efforts of the Chairman of  
4     the Joint Chiefs of Staff, the commanders of the combatant  
5     commands, and the Secretaries of the military departments to  
6     develop an effective system for tracking of United States and  
7     other friendly forces (known as “blue forces”) during combat  
8     operations.

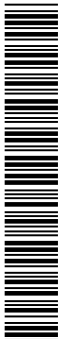
9           (b) JOINT BLUE FORCES TRACKING EXPERIMENT.—(1)  
10    The Secretary of Defense, acting through the commander of  
11    the United States Joint Forces Command, shall carry out a  
12    joint experiment during fiscal year 2004 to demonstrate and  
13    evaluate available joint blue forces tracking technologies.

14           (2) The objectives of the experiment under paragraph (1)  
15    are as follows:

16           (A) To explore various options for tracking United  
17    States and other friendly forces during combat operations.

18           (B) To determine an optimal, achievable, and  
19    upgradable solution for the development, acquisition, and  
20    fielding of a system for tracking all United States military  
21    forces that is coordinated and interoperable and also ac-  
22    commodates the participation of military forces of allied na-  
23    tions with United States forces in combat operations.

24           (c) REPORT.—Not later than 60 days after the conclusion  
25    of the experiment under subsection (b), but not later than De-  
26    cember 1, 2004, the Secretary shall submit to the congressional  
27    defense committees a report on the results of the experiment,  
28    together with a comprehensive plan for the development, acqui-  
29    sition, and fielding of a functional, near real-time blue forces  
30    tracking system.





1  
2

# **TITLE III—OPERATION AND MAINTENANCE**

## **Subtitle A—Authorization of Appropriations**

- Sec. 301. Operation and maintenance funding.
- Sec. 302. Working capital funds.
- Sec. 303. Other Department of Defense programs.

## **Subtitle B—Environmental Provisions**

- Sec. 311. Reauthorization and modification of title I of Sikes Act.
- Sec. 312. Clarification of Department of Defense response to environmental emergencies.
- Sec. 313. Repeal of authority to use environmental restoration account funds for relocation of a contaminated facility.
- Sec. 314. Authorization for Department of Defense participation in wetland mitigation banks.
- Sec. 315. Inclusion of environmental response equipment and services in Navy definitions of salvage facilities and salvage services.
- Sec. 316. Repeal of model program for base closure environmental restoration.
- Sec. 317. Requirements for restoration advisory boards and exemption from Federal Advisory Committee Act.
- Sec. 318. Military readiness and conservation of protected species.
- Sec. 319. Military readiness and marine mammal protection.
- Sec. 320. Report regarding impact of civilian community encroachment and certain legal requirements on military installations and ranges and plan to address encroachment.
- Sec. 321. Cooperative water use management related to Fort Huachuca, Arizona, and Sierra Vista subwatershed.
- Sec. 322. Task force on resolution of conflict between military training and endangered species protection at Barry M. Goldwater Range, Arizona.
- Sec. 323. Public health assessment of exposure to perchlorate.
- Sec. 324. Comptroller General review of Arctic Military Environmental Cooperation program.

## **Subtitle C—Workplace and Depot Issues**

- Sec. 331. Exemption of certain firefighting service contracts from prohibition on contracts for performance of firefighting functions.
- Sec. 332. Technical amendment relating to closure of Sacramento Army Depot, California.
- Sec. 333. Exception to competition requirement for depot-level maintenance and repair workloads performed by depot-level activities.
- Sec. 334. Resources-based schedules for completion of public-private competitions for performance of Department of Defense functions.
- Sec. 335. Delayed implementation of revised Office of Management and Budget Circular A-76 by Department of Defense pending report.
- Sec. 336. Pilot program for best-value source selection for performance of information technology services.
- Sec. 337. High-performing organization business process reengineering pilot program.
- Sec. 338. Naval Aviation Depots multi-trades demonstration project.



3-2

**Subtitle D—Other Matters**

- Sec. 341. Cataloging and standardization for defense supply management.  
Sec. 342. Sale of Defense Information Systems Agency services to contractors performing the Navy-Marine Corps Intranet contract.  
Sec. 343. Permanent authority for purchase of certain municipal services at installations in Monterey County, California.  
Sec. 344. Department of Defense telecommunications benefit.  
Sec. 345. Independent assessment of material condition of the KC-135 aerial refueling fleet.

**Subtitle A—Authorization of Appropriations****SEC. 301. OPERATION AND MAINTENANCE FUNDING.**

Funds are hereby authorized to be appropriated for fiscal year 2004 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

- (1) For the Army, \$24,627,037,000.
- (2) For the Navy, \$27,975,559,000.
- (3) For the Marine Corps, \$3,426,056,000.
- (4) For the Air Force, \$26,089,670,000.
- (5) For Defense-wide activities, \$16,243,157,000.
- (6) For the Army Reserve, \$1,966,009,000.
- (7) For the Naval Reserve, \$1,171,921,000.
- (8) For the Marine Corps Reserve, \$173,952,000.
- (9) For the Air Force Reserve, \$2,179,188,000.
- (10) For the Army National Guard, \$4,256,331,000.
- (11) For the Air National Guard, \$4,406,146,000.
- (12) For the United States Court of Appeals for the Armed Forces, \$10,333,000.
- (13) For Environmental Restoration, Army, \$396,018,000.
- (14) For Environmental Restoration, Navy, \$256,153,000.
- (15) For Environmental Restoration, Air Force, \$384,307,000.
- (16) For Environmental Restoration, Defense-wide, \$24,081,000.



3-3

(17) For Environmental Restoration, Formerly Used Defense Sites, \$252,619,000.

(18) For Overseas Humanitarian, Disaster, and Civic Aid programs, \$59,000,000.

(19) For Cooperative Threat Reduction programs, \$450,800,000.

(20) Overseas Contingencies Program, \$5,000,000.

#### **SEC. 302. WORKING CAPITAL FUNDS.**

Funds are hereby authorized to be appropriated for fiscal year 2004 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, \$632,261,000.

(2) For the National Defense Sealift Fund, \$1,062,762,000.

(3) For the Defense Commissary Agency Working Capital Fund, \$1,089,246,000.

#### **SEC. 303. OTHER DEPARTMENT OF DEFENSE PROGRAMS.**

(a) DEFENSE HEALTH PROGRAM.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2004 for expenses, not otherwise provided for, for the Defense Health Program, \$15,401,509,000, of which—

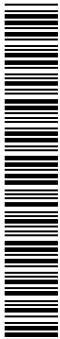
(1) \$15,007,887,000 is for Operation and Maintenance;

(2) \$65,796,000 is for Research, Development, Test, and Evaluation; and

(3) \$327,826,000 is for Procurement.

(b) CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE.—(1) Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2004 for expenses, not otherwise provided for, for Chemical Agents and Munitions Destruction, Defense, \$1,530,261,000, of which—

(A) \$1,199,168,000 is for Operation and Maintenance;



3-4

1 (B) \$251,881,000 is for Research, Development, Test,  
2 and Evaluation; and

3 (C) \$79,212,000 is for Procurement.

4 (2) Amounts authorized to be appropriated under para-  
5 graph (1) are authorized for—

6 (A) the destruction of lethal chemical agents and mu-  
7 nitions in accordance with section 1412 of the Department  
8 of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

9 (B) the destruction of chemical warfare materiel of the  
10 United States that is not covered by section 1412 of such  
11 Act.

12 (c) DRUG INTERDICTION AND COUNTER-DRUG ACTIVI-  
13 TIES, DEFENSE-WIDE.—Funds are hereby authorized to be ap-  
14 propriated for the Department of Defense for fiscal year 2004  
15 for expenses, not otherwise provided for, for Drug Interdiction  
16 and Counter-Drug Activities, Defense-wide, \$817,371,000.

17 (d) DEFENSE INSPECTOR GENERAL.—Funds are hereby  
18 authorized to be appropriated for the Department of Defense  
19 for fiscal year 2004 for expenses, not otherwise provided for,  
20 for the Office of the Inspector General of the Department of  
21 Defense, \$162,449,000, of which—

22 (1) \$160,049,000 is for Operation and Maintenance;

23 (2) \$2,100,000 is for Research, Development, Test,  
24 and Evaluation; and

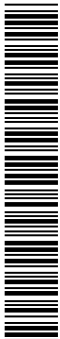
25 (3) \$300,000 is for Procurement.

## 26 Subtitle B—Environmental 27 Provisions

### 28 SEC. 311. REAUTHORIZATION AND MODIFICATION OF 29 TITLE I OF SIKES ACT.

30 (a) REAUTHORIZATION.—Section 108 of the Sikes Act (16  
31 U.S.C. 670f) is amended by striking “fiscal years 1998 through  
32 2003” each place it appears and inserting “fiscal years 2004  
33 through 2008”.

34 (b) SENSE OF CONGRESS REGARDING SECTION 107.—(1)  
35 Congress finds the following:





1 (A) The Department of Defense maintains over  
2 25,000,000 acres of valuable fish and wildlife habitat on  
3 approximately 400 military installations nationwide.

4 (B) These lands contain a wealth of plant and animal  
5 life, vital wetlands for migratory birds, and nearly 300 fed-  
6 erally listed threatened species and endangered species.

7 (C) Increasingly, land surrounding military bases are  
8 being developed with residential and commercial infrastruc-  
9 ture that fragments fish and wildlife habitat and decreases  
10 its ability to support a diversity of species.

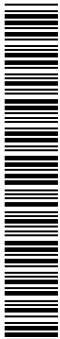
11 (D) Comprehensive conservation plans, such as inte-  
12 grated natural resource management plans under the Sikes  
13 Act (16 U.S.C. 670 et seq.), can ensure that these eco-  
14 system values can be protected and enhanced while allowing  
15 these lands to meet the needs of military operations.

16 (E) Section 107 of the Sikes Act (16 U.S.C. 670e-2)  
17 requires sufficient numbers of professionally trained nat-  
18 ural resources management personnel and natural re-  
19 sources law enforcement personnel to be available and as-  
20 signed responsibility to perform tasks necessary to carry  
21 out title I of the Sikes Act, including the preparation and  
22 implementation of integrated natural resource management  
23 plans.

24 (F) Managerial and policymaking functions performed  
25 by Department of Defense on-site professionally trained  
26 natural resource management personnel on military instal-  
27 lations are appropriate governmental functions.

28 (G) Professionally trained civilian biologists in perma-  
29 nent Federal Government career managerial positions are  
30 essential to oversee fish and wildlife and natural resource  
31 conservation programs and are essential to the conservation  
32 of wildlife species on military land.

33 (2) It is the sense of Congress that the Secretary of De-  
34 fense should take whatever steps are necessary to ensure that  
35 section 107 of the Sikes Act (16 U.S.C. 670e-2) is fully imple-  
36 mented consistent with the findings made in paragraph (1).



(c) PILOT PROGRAM.—(1) Section 101 of the Sikes Act (16 U.S.C. 670a) is amended by adding at the end the following new subsection:

“(g) PILOT PROGRAM FOR INVASIVE SPECIES MANAGEMENT FOR MILITARY INSTALLATIONS IN GUAM.—

“(1) INCLUSION OF INVASIVE SPECIES MANAGEMENT.—During fiscal years 2004 through 2008, the Secretary of Defense shall, to the extent practicable and conducive to military readiness, incorporate in integrated natural resources management plans for military installations in Guam the management, control, and eradication of invasive species—

“(A) that are not native to the ecosystem of the military installation; and

“(B) the introduction of which cause or may cause harm to military readiness, the environment, or human health and safety.

“(2) CONSULTATION.—The Secretary of Defense shall carry out this subsection in consultation with the Secretary of the Interior.”.

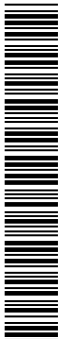
(2) Section 101(g) of the Sikes Act, as added by paragraph (1), shall apply—

(A) to any integrated natural resources management plan prepared for a military installation in Guam under section 101(a)(1) of such Act on or after the date of the enactment of this Act; and

(B) effective March 1, 2004, to any integrated natural resources management plan prepared for a military installation in Guam under such section before the date of the enactment of this Act.

**SEC. 312. CLARIFICATION OF DEPARTMENT OF DEFENSE RESPONSE TO ENVIRONMENTAL EMERGENCIES.**

(a) TRANSPORTATION OF HUMANITARIAN RELIEF SUPPLIES TO RESPOND TO ENVIRONMENTAL EMERGENCIES.—Section 402 of title 10, United States Code, is amended—



## 3-7

1 (1) by redesignating subsection (d) as subsection (e);  
2 and

3 (2) by inserting after subsection (c) the following new  
4 subsection (d):

5 “(d)(1) The Secretary of Defense may use the authority  
6 provided by subsection (a) to transport supplies intended for  
7 use to respond to, or mitigate the effects of, an event or condi-  
8 tion, such as an oil spill, that threatens serious harm to the  
9 environment, but only if other sources to provide such transpor-  
10 tation are not readily available.

11 “(2) Notwithstanding subsection (a), the Secretary of De-  
12 fense may require reimbursement for costs incurred by the De-  
13 partment of Defense to transport supplies under this sub-  
14 section.”.

15 (b) CONDITIONS ON PROVISION OF TRANSPORTATION.—  
16 Subsection (b) of such section is amended—

17 (1) in paragraph (1)(C), by inserting “or entity” after  
18 “people”;

19 (2) in paragraph (1)(E), by inserting “or use” after  
20 “distribution”; and

21 (3) in paragraph (3), by striking “donor to ensure  
22 that supplies to be transported under this section” and in-  
23 serting “entity requesting the transport of supplies under  
24 this section to ensure that the supplies”.

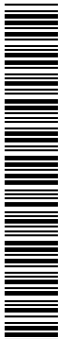
25 (c) PROVISION OF DISASTER ASSISTANCE.—Section 404  
26 of such title is amended—

27 (1) in subsection (a), by inserting “or serious harm to  
28 the environment” after “loss of lives”;

29 (2) in subsection (c)(2), by inserting “or the environ-  
30 ment” after “human lives”; and

31 (3) by adding at the end the following new subsection:

32 “(e) LIMITATION ON TRANSPORTATION ASSISTANCE.—  
33 Transportation services authorized under subsection (b) may be  
34 provided in response to a manmade or natural disaster to pre-  
35 vent serious harm to the environment, when human lives are  
36 not at risk, only if other sources to provide such transportation  
37 are not readily available.”.



1 (d) PROVISION OF HUMANITARIAN ASSISTANCE.—Section  
2 2561(a) of such title is amended—

3 (1) by inserting “(1)” before “To the extent”; and

4 (2) by adding at the end the following new paragraph:

5 “(2) The Secretary of Defense may use the authority pro-  
6 vided by paragraph (1) to transport supplies intended for use  
7 to respond to, or mitigate the effects of, an event or condition,  
8 such as an oil spill, that threatens serious harm to the environ-  
9 ment, but only if other sources to provide such transportation  
10 are not readily available. The Secretary may require reimburse-  
11 ment for costs incurred by the Department of Defense to trans-  
12 port supplies under this paragraph.”.

13 **SEC. 313. REPEAL OF AUTHORITY TO USE ENVIRON-**  
14 **MENTAL RESTORATION ACCOUNT FUNDS**  
15 **FOR RELOCATION OF A CONTAMINATED FA-**  
16 **CILITY.**

17 (a) REPEAL.—Effective October 1, 2003, section 2703(c)  
18 of title 10, United States Code, is amended—

19 (1) in paragraph (1) by striking “only—” and all that  
20 follows through the period at the end and inserting “only  
21 to carry out the environmental restoration functions of the  
22 Secretary of Defense and the Secretaries of the military de-  
23 partments under this chapter and under any other provi-  
24 sion of law.”;

25 (2) by striking paragraphs (2) and (3); and

26 (3) by redesignating paragraph (4) as paragraph (2)  
27 and striking the second sentence of such paragraph.

28 (b) EFFECT OF REPEAL ON EXISTING AGREEMENTS.—An  
29 agreement in effect on September 30, 2003, under section  
30 2703(c)(1)(B) of title 10, United States Code, as in effect on  
31 that date, to pay for the costs of permanently relocating a facil-  
32 ity because of a release or threatened release of hazardous sub-  
33 stances, pollutants, or contaminants shall remain in effect after  
34 that date, subject to the terms of the agreement, and costs may  
35 be paid in accordance with the terms of the agreement, not-  
36 withstanding the amendments made by subsection (a).



1   **SEC. 314. AUTHORIZATION FOR DEPARTMENT OF DE-**  
2                   **ENSE PARTICIPATION IN WETLAND MITIGA-**  
3                   **TION BANKS.**

4           (a) DOD PARTICIPATION.—(1) Chapter 159 of title 10,  
5   United States Code, is amended by inserting after section  
6   2694a the following new section:

7   **“§ 2694b. Participation in wetland mitigation**  
8                   **banks**

9           “(a) AUTHORITY TO PARTICIPATE.—The Secretary of a  
10   military department, and the Secretary of Defense with respect  
11   to matters concerning a Defense Agency, when engaged in an  
12   authorized activity that may or will result in the destruction of,  
13   or an adverse impact to, a wetland, may make payments to a  
14   wetland mitigation banking program or ‘in-lieu-fee’ mitigation  
15   sponsor approved in accordance with the Federal Guidance for  
16   the Establishment, Use and Operation of Mitigation Banks (60  
17   Fed. Reg. 58605; November 28, 1995) or the Federal Guidance  
18   on the Use of In-Lieu-Fee Arrangements for Compensatory  
19   Mitigation Under Section 404 of the Clean Water Act and Sec-  
20   tion 10 of the Rivers and Harbors Act (65 Fed. Reg. 66913;  
21   November 7, 2000), or any successor administrative guidance  
22   or regulation.

23           “(b) ALTERNATIVE TO CREATION OF WETLAND.—Partici-  
24   pation in a wetland mitigation banking program or consolidated  
25   user site under subsection (a) shall be in lieu of mitigating wet-  
26   land impacts through the creation of a wetland on Federal  
27   property.

28           “(c) TREATMENT OF PAYMENTS.—Payments made under  
29   subsection (a) to a wetland mitigation banking program or con-  
30   solidated user site may be treated as eligible project costs for  
31   military construction.”.

32           (2) The table of sections at the beginning of such chapter  
33   is amended by inserting after the item relating to section  
34   2694a the following new item:

“2694b. Participation in wetland mitigation banks.”.

35           (b) MITIGATION AND MITIGATION BANKING REGULA-  
36   TIONS.—(1) To ensure opportunities for Federal agency par-



1 participation in mitigation banking, the Secretary of the Army,  
2 acting through the Chief of Engineers, shall issue regulations  
3 establishing performance standards and criteria for the use,  
4 consistent with section 404 of the Federal Water Pollution  
5 Control Act (33 U.S.C. 1344), of on-site, off-site, and in-lieu  
6 fee mitigation and mitigation banking as compensation for lost  
7 wetlands functions in permits issued by the Secretary of the  
8 Army under such section. To the maximum extent practicable,  
9 the regulatory standards and criteria shall maximize available  
10 credits and opportunities for mitigation, provide flexibility for  
11 regional variations in wetland conditions, functions and values,  
12 and apply equivalent standards and criteria to each type of  
13 compensatory mitigation.

14 (2) Final regulations shall be issued not later than two  
15 years after the date of the enactment of this Act.

16 **SEC. 315. INCLUSION OF ENVIRONMENTAL RESPONSE**  
17 **EQUIPMENT AND SERVICES IN NAVY DEFINI-**  
18 **TIONS OF SALVAGE FACILITIES AND SAL-**  
19 **VAGE SERVICES.**

20 (a) SALVAGE FACILITIES.—Section 7361 of title 10,  
21 United States Code, is amended by adding at the end the fol-  
22 lowing new subsection:

23 “(e) SALVAGE FACILITIES DEFINED.—In this section, the  
24 term ‘salvage facilities’ includes equipment and gear utilized to  
25 prevent, abate, or minimize damage to the environment.”.

26 (b) SETTLEMENT OF CLAIMS FOR SALVAGE SERVICES.—  
27 Section 7363 of such title is amended—

28 (1) by inserting “(a) AUTHORITY TO SETTLE  
29 CLAIM.—” before “The Secretary”; and

30 (2) by adding at the end the following new subsection:

31 “(b) SALVAGE SERVICES DEFINED.—In this section, the  
32 term ‘salvage services’ includes services performed in connec-  
33 tion with a marine salvage operation that are intended to pre-  
34 vent, abate, or minimize damage to the environment.”.



1   **SEC. 316. REPEAL OF MODEL PROGRAM FOR BASE CLO-**  
2   **SURE ENVIRONMENTAL RESTORATION.**

3       Section 2926 of the National Defense Authorization Act  
4   for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2687  
5   note) is repealed.

6   **SEC. 317. REQUIREMENTS FOR RESTORATION ADVISORY**  
7   **BOARDS AND EXEMPTION FROM FEDERAL**  
8   **ADVISORY COMMITTEE ACT.**

9       (a) MEMBERSHIP AND MEETING REQUIREMENTS FOR  
10   RESTORATION ADVISORY BOARDS.—The Secretary of Defense  
11   shall amend the regulations required by section 2705(d)(2) of  
12   title 10, United States Code, relating to the establishment,  
13   characteristics, composition, and funding of restoration advi-  
14   sory boards to ensure that each restoration advisory board  
15   complies with the following requirements:

16       (1) Each restoration advisory board shall be fairly bal-  
17   anced in its membership in terms of the points of view rep-  
18   resented and the functions to be performed.

19       (2) Unless a closed or partially closed meeting is de-  
20   termined to be proper in accordance with one or more of  
21   the exceptions listed in the section 552b(c) of title 5,  
22   United States Code, each meeting of a restoration advisory  
23   board shall be—

24       (A) held at a reasonable time and in a manner or  
25   place reasonably accessible to the public, including indi-  
26   viduals with disabilities; and

27       (B) open to the public.

28       (3) Timely notice of each meeting of a restoration ad-  
29   visory board shall be published in a local newspaper of gen-  
30   eral circulation.

31       (4) Interested persons may appear before or file state-  
32   ments with a restoration advisory board, subject to such  
33   reasonable restrictions as the Secretary may prescribe.

34       (5) Subject to section 552 of title 5, United States  
35   Code, the records, reports, minutes, appendixes, working  
36   papers, drafts, studies, agenda, or other documents that  
37   were made available to, prepared for, or prepared by each



1 restoration advisory board shall be available for public in-  
2 spection and copying at a single, publicly accessible loca-  
3 tion, such as a public library or an appropriate office of the  
4 military installation for which the restoration advisory  
5 board is established, at least until the restoration advisory  
6 board is terminated.

7 (6) Detailed minutes of each meeting of each restora-  
8 tion advisory board shall be kept and shall contain a record  
9 of the persons present, a complete and accurate description  
10 of matters discussed and conclusions reached, and copies of  
11 all reports received, issued, or approved by the restoration  
12 advisory board. The accuracy of the minutes of a restora-  
13 tion advisory board shall be certified by the chairperson of  
14 the board.

15 (b) FACA EXEMPTION.—Section 2705(d)(2) of title 10,  
16 United States Code, is amended by adding at the end the fol-  
17 lowing new subparagraph:

18 “(C) The Federal Advisory Committee Act (5 U.S.C.  
19 App.) shall not apply to a restoration advisory board estab-  
20 lished under this subsection.”.

21 **SEC. 318. MILITARY READINESS AND CONSERVATION OF**  
22 **PROTECTED SPECIES.**

23 (a) LIMITATION ON DESIGNATION OF CRITICAL HABI-  
24 TAT.—Section 4(a)(3) of the Endangered Species Act of 1973  
25 (16 U.S.C. 1533(a)(3)) is amended—

26 (1) by redesignating subparagraphs (A) and (B) as  
27 clauses (i) and (ii), respectively;

28 (2) by inserting “(A)” after “(3)”; and

29 (3) by adding at the end the following:

30 “(B)(i) The Secretary shall not designate as critical habi-  
31 tat any lands or other geographical areas owned or controlled  
32 by the Department of Defense, or designated for its use, that  
33 are subject to an integrated natural resources management  
34 plan prepared under section 101 of the Sikes Act (16 U.S.C.  
35 670a), if the Secretary determines in writing that such plan  
36 provides a benefit to the species for which critical habitat is  
37 proposed for designation.





1 “(ii) Nothing in this paragraph affects the requirement to  
2 consult under section 7(a)(2) with respect to an agency action  
3 (as that term is defined in that section).

4 “(iii) Nothing in this paragraph affects the obligation of  
5 the Department of Defense to comply with section 9, including  
6 the prohibition preventing extinction and taking of endangered  
7 species and threatened species.”.

8 (b) CONSIDERATION OF EFFECTS OF DESIGNATION OF  
9 CRITICAL HABITAT.—Section 4(b)(2) of the Endangered Spe-  
10 cies Act of 1973 (16 U.S.C. 1533(b)(2)) is amended by insert-  
11 ing “the impact on national security,” after “the economic im-  
12 pact,”.

13 **SEC. 319. MILITARY READINESS AND MARINE MAMMAL**  
14 **PROTECTION.**

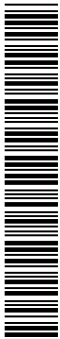
15 (a) DEFINITION OF HARASSMENT FOR MILITARY READI-  
16 NESS ACTIVITIES.—Section 3(18) of the Marine Mammal Pro-  
17 tection Act of 1972 (16 U.S.C. 1362(18)) is amended by strik-  
18 ing subparagraphs (B) and (C) and inserting the following new  
19 subparagraphs:

20 “(B) In the case of a military readiness activity (as  
21 defined in section 315(f) of Public Law 107-314; 16  
22 U.S.C. 703 note) or a scientific research activity conducted  
23 by or on behalf of the Federal Government consistent with  
24 section 104(c)(3), the term ‘harassment’ means—

25 “(i) any act that injures or has the significant po-  
26 tential to injure a marine mammal or marine mammal  
27 stock in the wild; or

28 “(ii) any act that disturbs or is likely to disturb  
29 a marine mammal or marine mammal stock in the wild  
30 by causing disruption of natural behavioral patterns,  
31 including, but not limited to, migration, surfacing,  
32 nursing, breeding, feeding, or sheltering, to a point  
33 where such behavioral patterns are abandoned or sig-  
34 nificantly altered.

35 “(C) The term ‘Level A harassment’ means harass-  
36 ment described in subparagraph (A)(i) or, in the case of a  
37 military readiness activity or scientific research activity de-



1       scribed in subparagraph (B), harassment described in sub-  
2       paragraph (B)(i).

3           “(D) The term ‘Level B harassment’ means harass-  
4       ment described in subparagraph (A)(ii) or, in the case of  
5       a military readiness activity or scientific research activity  
6       described in subparagraph (B), harassment described in  
7       subparagraph (B)(ii).”.

8       (b) EXEMPTION OF ACTIONS NECESSARY FOR NATIONAL  
9       DEFENSE.—Section 101 of the Marine Mammal Protection Act  
10      of 1972 (16 U.S.C. 1371) is amended by inserting after sub-  
11      section (e) the following:

12           “(f) EXEMPTION OF ACTIONS NECESSARY FOR NATIONAL  
13      DEFENSE.—(1) The Secretary of Defense, after conferring  
14      with the Secretary of Commerce, the Secretary of the Interior,  
15      or both, as appropriate, may exempt any action or category of  
16      actions undertaken by the Department of Defense or its compo-  
17      nents from compliance with any requirement of this Act, if the  
18      Secretary determines that it is necessary for national defense.

19           “(2) An exemption granted under this subsection—

20           “(A) subject to subparagraph (B), shall be effective  
21      for a period specified by the Secretary of Defense; and

22           “(B) shall not be effective for more than 2 years.

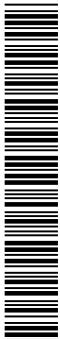
23           “(3)(A) The Secretary of Defense may issue additional ex-  
24      emptions under this subsection for the same action or category  
25      of actions, after—

26           “(i) conferring with the Secretary of Commerce, the  
27      Secretary of the Interior, or both as appropriate; and

28           “(ii) making a new determination that the additional  
29      exemption is necessary for national defense.

30           “(B) Each additional exemption under this paragraph  
31      shall be effective for a period specified by the Secretary of De-  
32      fense, of not more than 2 years.

33           “(4) Not later than 30 days after issuing an exemption  
34      under paragraph (1) or an additional exemption under para-  
35      graph (3), the Secretary of Defense shall submit to the Com-  
36      mittee on Armed Services of the House of Representatives and  
37      the Committee on Armed Services of the Senate notice describ-



1 ing the exemption and the reasons therefor. The notice may be  
2 provided in classified form if the Secretary of Defense deter-  
3 mines that use of the classified form is necessary for reasons  
4 of national security.”.

5 (c) INCIDENTAL TAKINGS OF MARINE MAMMALS IN MILI-  
6 TARY READINESS ACTIVITIES.—Section 101(a)(5) of the Ma-  
7 rine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(5))  
8 is amended—

9 (1) in subparagraph (A)—

10 (A) by redesignating clauses (i) and (ii) and sub-  
11 clauses (I) and (II) as subclauses (I) and (II) and  
12 items (aa) and (bb), respectively;

13 (B) by inserting “(i)” after “(5)(A)”; and

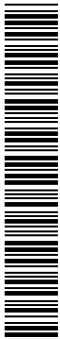
14 (C) by adding at the end the following new  
15 clauses:

16 “(ii) For a military readiness activity (as defined in  
17 section 315(f) of Public Law 107–314; 16 U.S.C. 703  
18 note), a determination of ‘least practicable adverse impact  
19 on such species or stock’ under clause (i)(II)(aa) shall in-  
20 clude consideration of personnel safety, practicality of im-  
21 plementation, and impact on the effectiveness of the mili-  
22 tary readiness activity. Before making the required deter-  
23 mination, the Secretary shall consult with the Department  
24 of Defense regarding personnel safety, practicality of imple-  
25 mentation, and impact on the effectiveness of the military  
26 readiness activity.

27 “(iii) Notwithstanding clause (i), for any authorization  
28 affecting a military readiness activity (as defined in section  
29 315(f) of Public Law 107–314; 16 U.S.C. 703 note), the  
30 Secretary shall publish the notice required by such clause  
31 only in the Federal Register.”;

32 (2) in subparagraph (D), by adding at the end the fol-  
33 lowing new clauses:

34 “(vi) For a military readiness activity (as defined in  
35 section 315(f) of Public Law 107–314; 16 U.S.C. 703  
36 note), a determination of ‘least practicable adverse impact  
37 on such species or stock’ under clause (i)(I) shall include



1 consideration of personnel safety, practicality of implemen-  
2 tation, and impact on the effectiveness of the military read-  
3 iness activity. Before making the required determination,  
4 the Secretary shall consult with the Department of Defense  
5 regarding personnel safety, practicality of implementation,  
6 and impact on the effectiveness of the military readiness  
7 activity.

8 “(vii) Notwithstanding clause (iii), for any authoriza-  
9 tion affecting a military readiness activity (as defined in  
10 section 315(f) of Public Law 107-314; 16 U.S.C. 703  
11 note), the Secretary shall publish the notice required by  
12 such clause only in the Federal Register.”; and

13 (3) by adding at the end the following new subpara-  
14 graph:

15 “(F) Notwithstanding the provisions of this sub-  
16 section, any authorization affecting a military readiness ac-  
17 tivity (as defined in section 315(f) of Public Law 107-314;  
18 16 U.S.C. 703 note) shall not be subject to the following  
19 requirements:

20 “(i) In subparagraph (A), ‘within a specified geo-  
21 graphical region’ and ‘within that region of small num-  
22 bers’.

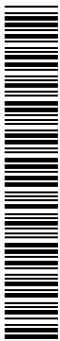
23 “(ii) In subparagraph (B), ‘within a specified geo-  
24 graphical region’ and ‘within one or more regions’.

25 “(iii) In subparagraph (D), ‘within a specific geo-  
26 graphic region’, ‘of small numbers’, and ‘within that re-  
27 gion’.”.

28 **SEC. 320. REPORT REGARDING IMPACT OF CIVILIAN**  
29 **COMMUNITY ENCROACHMENT AND CERTAIN**  
30 **LEGAL REQUIREMENTS ON MILITARY IN-**  
31 **STALLATIONS AND RANGES AND PLAN TO**  
32 **ADDRESS ENCROACHMENT.**

33 (a) STUDY REQUIRED.—The Secretary of Defense shall  
34 conduct a study on the impact, if any, of the following types  
35 of encroachment issues affecting military installations and  
36 operational ranges:

37 (1) Civilian community encroachment on those mili-  
38 tary installations and ranges whose operational training ac-



1 activities, research, development, test, and evaluation activi-  
2 ties, or other operational, test and evaluation, maintenance,  
3 storage, disposal, or other support functions require, or in  
4 the future reasonably may require, safety or operational  
5 buffer areas. The requirement for such a buffer area may  
6 be due to a variety of factors, including air operations, ord-  
7 nance operations and storage, or other activities that gen-  
8 erate or might generate noise, electro-magnetic inter-  
9 ference, ordnance arcs, or environmental impacts that re-  
10 quire or may require safety or operational buffer areas.

11 (2) Compliance by the Department of Defense with  
12 State Implementation Plans for Air Quality under section  
13 110 of the Clean Air Act (42 U.S.C. 7410).

14 (3) Compliance by the Department of Defense with  
15 the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) and  
16 the Comprehensive Environmental Response, Compensa-  
17 tion, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

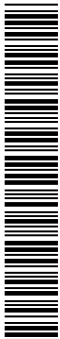
18 (b) MATTERS TO BE INCLUDED WITH RESPECT TO CI-  
19 VILIAN COMMUNITY ENCROACHMENTS.—With respect to para-  
20 graph (1) of subsection (a), the study shall include the fol-  
21 lowing:

22 (1) A list of all military installations described in sub-  
23 section (a)(1) at which civilian community encroachment is  
24 occurring.

25 (2) A description and analysis of the types and degree  
26 of such civilian community encroachment at each military  
27 installation included on the list.

28 (3) An analysis, including views and estimates of the  
29 Secretary of Defense, of the current and potential future  
30 impact of such civilian community encroachment on oper-  
31 ational training activities, research, development, test, and  
32 evaluation activities, and other significant operational, test  
33 and evaluation, maintenance, storage, disposal, or other  
34 support functions performed by military installations in-  
35 cluded on the list. The analysis shall include the following:

36 (A) A review of training and test ranges at mili-  
37 tary installations, including laboratories and technical



1 centers of the military departments, included on the  
2 list.

3 (B) A description and explanation of the trends of  
4 such encroachment, as well as consideration of poten-  
5 tial future readiness problems resulting from unabated  
6 encroachment.

7 (4) An estimate of the costs associated with current  
8 and anticipated partnerships between the Department of  
9 Defense and non-Federal entities to create buffer zones to  
10 preclude further development around military installations  
11 included on the list, and the costs associated with the con-  
12 veyance of surplus property around such military installa-  
13 tions for purposes of creating buffer zones.

14 (5) Options and recommendations for possible legisla-  
15 tive or budgetary changes necessary to mitigate current  
16 and anticipated future civilian community encroachment  
17 problems.

18 (c) MATTERS TO BE INCLUDED WITH RESPECT TO COM-  
19 PLIANCE WITH SPECIFIED LAWS.—With respect to paragraphs  
20 (2) and (3) of subsection (a), the study shall include the fol-  
21 lowing:

22 (1) A list of all military installations and other loca-  
23 tions at which the Armed Forces are encountering prob-  
24 lems related to compliance with the laws specified in such  
25 paragraphs.

26 (2) A description and analysis of the types and degree  
27 of compliance problems encountered.

28 (3) An analysis, including views and estimates of the  
29 Secretary of Defense, of the current and potential future  
30 impact of such compliance problems on the following func-  
31 tions performed at military installations:

32 (A) Operational training activities.

33 (B) Research, development, test, and evaluation  
34 activities.

35 (C) Other significant operational, test and evalua-  
36 tion, maintenance, storage, disposal, or other support  
37 functions.



1 (4) A description and explanation of the trends of  
2 such compliance problems, as well as consideration of po-  
3 tential future readiness problems resulting from such com-  
4 pliance problems.

5 (d) PLAN TO RESPOND TO ENCROACHMENT ISSUES.—On  
6 the basis of the study conducted under subsection (a), including  
7 the specific matters required to be addressed by subsections (b)  
8 and (c), the Secretary of Defense shall prepare a plan to re-  
9 spond to the encroachment issues described in subsection (a)  
10 affecting military installations and operational ranges.

11 (e) REPORTING REQUIREMENTS.—The Secretary of De-  
12 fense shall submit to the Committee on Armed Services of the  
13 Senate and the Committee on Armed Services of the House of  
14 Representatives the following reports regarding the study con-  
15 ducted under subsection (a), including the specific matters re-  
16 quired to be addressed by subsections (b) and (c):

17 (1) Not later than January 31, 2004, an interim re-  
18 port describing the progress made in conducting the study  
19 and containing the information collected under the study as  
20 of that date.

21 (2) Not later than January 31, 2006, a report con-  
22 taining the results of the study and the encroachment re-  
23 sponse plan required by subsection (d).

24 (3) Not later than January 31, 2007, and each Janu-  
25 ary 31 thereafter through January 31, 2010, a report de-  
26 scribing the progress made in implementing the encroach-  
27 ment response plan.

28 **SEC. 321. COOPERATIVE WATER USE MANAGEMENT RE-**  
29 **LATED TO FORT HUACHUCA, ARIZONA, AND**  
30 **SIERRA VISTA SUBWATERSHED.**

31 (a) LIMITATION ON FEDERAL RESPONSIBILITY FOR CIVIL-  
32 IAN WATER CONSUMPTION IMPACTS.—

33 (1) LIMITATION.—For purposes of section 7 of the  
34 Endangered Species Act of 1973 (16 U.S.C. 1536), con-  
35 cerning any present and future Federal agency action at  
36 Fort Huachuca, Arizona, water consumption by State,  
37 local, and private entities off of the installation that is not



1 a direct or indirect effect of the agency action or an effect  
2 of other activities that are interrelated or interdependent  
3 with that agency action, shall not be considered in deter-  
4 mining whether such agency action is likely to jeopardize  
5 the continued existence of any endangered or threatened  
6 species or result in the destruction or adverse modification  
7 of designated critical habitat.

8 (2) VOLUNTARY REGIONAL CONSERVATION EF-  
9 FORTS.—Nothing in this subsection shall prohibit Federal  
10 agencies operating at Fort Huachuca from voluntarily un-  
11 dertaking efforts to mitigate water consumption.

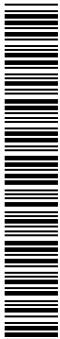
12 (3) DEFINITION OF WATER CONSUMPTION.—In this  
13 subsection, the term “water consumption” means all water  
14 use off of the installation from any source.

15 (4) EFFECTIVE DATE.—This subsection applies only to  
16 Federal agency actions regarding which the Federal agency  
17 involved determines that consultation, or reinitiation of  
18 consultation, under section 7 of the Endangered Species  
19 Act of 1973 (16 U.S.C. 1536) is required with regard to  
20 an agency action at Fort Huachuca on or after the date  
21 of the enactment of this Act.

22 (b) RECOGNITION OF UPPER SAN PEDRO PARTNER-  
23 SHIP.—Congress hereby recognizes the Upper San Pedro Part-  
24 nership, Arizona, a partnership of Fort Huachuca, Arizona,  
25 other Federal, State, and local governmental and nongovern-  
26 mental entities, and its efforts to establish a collaborative water  
27 use management program in the Sierra Vista Subwatershed,  
28 Arizona, to achieve the sustainable yield of the regional aquifer,  
29 so as to protect the Upper San Pedro River, Arizona, and the  
30 San Pedro Riparian National Conservation Area, Arizona.

31 (c) REPORT ON WATER USE MANAGEMENT AND CON-  
32 SERVATION OF REGIONAL AQUIFER.—

33 (1) IN GENERAL.—The Secretary of Interior shall pre-  
34 pare, in consultation with the Secretary of Agriculture and  
35 the Secretary of Defense and in cooperation with the other  
36 members of the Partnership, a report on the water use  
37 management and conservation measures that have been im-





1       plemented and are needed to restore and maintain the sus-  
2       tainable yield of the regional aquifer by and after Sep-  
3       tember 30, 2011. The Secretary of the Interior shall sub-  
4       mit the report to Congress not later than December 31,  
5       2004.

6           (2) PURPOSE.—The purpose of the report is to set  
7       forth measurable annual goals for the reduction of the  
8       overdrafts of the groundwater of the regional aquifer, to  
9       identify specific water use management and conservation  
10      measures to facilitate the achievement of such goals, and  
11      to identify impediments in current Federal, State, and local  
12      laws that hinder efforts on the part of the Partnership to  
13      mitigate water usage in order to restore and maintain the  
14      sustainable yield of the regional aquifer by and after Sep-  
15      tember 30, 2011.

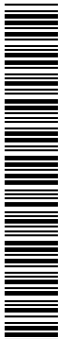
16          (3) REPORT ELEMENTS.—The report shall use data  
17      from existing and ongoing studies and include the following  
18      elements:

19           (A) The net quantity of water withdrawn from and  
20      recharged to the regional aquifer in the one-year period  
21      preceding the date of the submission of the report.

22           (B) The quantity of the overdraft of the regional  
23      aquifer to be reduced by the end of each of fiscal years  
24      2005 through 2011 to achieve sustainable yield.

25           (C) With respect to the reduction of overdraft for  
26      each fiscal year as specified under subparagraph (B),  
27      an allocation of responsibility for the achievement of  
28      such reduction among the water-use controlling mem-  
29      bers of the Partnership who have the authority to im-  
30      plement measures to achieve such reduction.

31           (D) The water use management and conservation  
32      measures to be undertaken by each water-use control-  
33      ling member of the Partnership to contribute to the re-  
34      duction of the overdraft for each fiscal year as specified  
35      under subparagraph (B), and to meet the responsibility  
36      of each such member for each such reduction as allo-  
37      cated under subparagraph (C), including—



- 1 (i) a description of each measure;
- 2 (ii) the cost of each measure;
- 3 (iii) a schedule for the implementation of each
- 4 measure;
- 5 (iv) a projection by fiscal year of the amount
- 6 of the contribution of each measure to the reduc-
- 7 tion of the overdraft; and
- 8 (v) a list of existing laws that impede full im-
- 9 plementation of any measure.

10 (E) The monitoring and verification activities to  
11 be undertaken by the Partnership to measure the re-  
12 duction of the overdraft for each fiscal year and the  
13 contribution of each member of the Partnership to the  
14 reduction of the overdraft.

15 (d) ANNUAL REPORT ON PROGRESS TOWARD SUSTAIN-  
16 ABLE YIELD.—

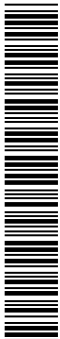
17 (1) IN GENERAL.—Not later than October 31, 2005,  
18 and each October 31 thereafter through 2011, the Sec-  
19 retary of the Interior shall submit, on behalf of the Part-  
20 nership, to Congress a report on the progress of the Part-  
21 nership during the preceding fiscal year toward achieving  
22 and maintaining the sustainable yield of the regional aqui-  
23 fer by and after September 30, 2011.

24 (2) REPORT ELEMENTS.—Each report shall include  
25 the following:

26 (A) The quantity of the overdraft of the regional  
27 aquifer reduced during the reporting period, and  
28 whether such reduction met the goal specified for such  
29 fiscal year under subsection (c)(3)(B).

30 (B) The water use management and conservation  
31 measures undertaken by each water-use controlling  
32 member of the Partnership in the fiscal year covered by  
33 such report, including the extent of the contribution of  
34 such measures to the reduction of the overdraft for  
35 such fiscal year.

36 (C) The legislative accomplishments made during  
37 the fiscal year covered by such report in removing legal



1           impediments that hinder the mitigation of water use by  
2           members of the Partnership.

3           (e) VERIFICATION INFORMATION.—Information used to  
4 verify overdraft reductions of the regional aquifer shall include  
5 at a minimum the following:

6           (1) The annual report of the Arizona Corporation  
7 Commission on annual groundwater pumpage of the private  
8 water companies in the Sierra Vista Subwatershed.

9           (2) The San Pedro base flow monitoring record of the  
10 Charleston flow gauge of the United States Geological Sur-  
11 vey.

12           (3) Current surveys of the groundwater levels in area  
13 wells as reported by the Arizona Department of Water Re-  
14 sources and by Federal agencies.

15           (f) SENSE OF CONGRESS.—It is the sense of Congress  
16 that any future appropriations to the Partnership should take  
17 into account whether the Partnership has met its annual goals  
18 for overdraft reduction.

19           (g) DEFINITIONS.—In this section:

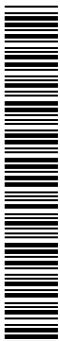
20           (1) The term “Partnership” means the Upper San  
21 Pedro Partnership, Arizona.

22           (2) The term “regional aquifer” means the Sierra  
23 Vista Subwatershed regional aquifer, Arizona.

24           (3) The term “water-use controlling member” has the  
25 meaning given that term by the Partnership.

26 **SEC. 322. TASK FORCE ON RESOLUTION OF CONFLICT**  
27 **BETWEEN MILITARY TRAINING AND ENDAN-**  
28 **GERED SPECIES PROTECTION AT BARRY M.**  
29 **GOLDWATER RANGE, ARIZONA.**

30           (a) TASK FORCE.—The Secretary of Defense shall estab-  
31 lish a task force to determine and assess various means of re-  
32 solving the conflict between the dual objectives at Barry M.  
33 Goldwater Range, Arizona, of the full utilization of live ord-  
34 nance delivery areas for military training and the protection of  
35 endangered species that are present at Barry M. Goldwater  
36 Range.



(b) COMPOSITION.—The task force shall be composed of the following members:

(1) The Air Force range officer, who shall serve as chairperson of the task force.

(2) The range officer at Barry M. Goldwater Range.

(3) The commander of Luke Air Force Base, Arizona.

(4) The commander of Marine Corps Air Station, Yuma, Arizona.

(5) The Director of the United States Fish and Wildlife Service.

(6) The manager of the Cabeza Prieta National Wildlife Refuge, Arizona.

(7) A representative of the Department of Game and Fish of the State of Arizona, selected by the Secretary in consultation with the Governor of the State of Arizona.

(8) A representative of a wildlife interest group in the State of Arizona, selected by the Secretary in consultation with wildlife interest groups in the State of Arizona.

(9) A representative of an environmental interest group (other than a wildlife interest group) in the State of Arizona, as selected by the Secretary in consultation with environmental interest groups in the State of Arizona.

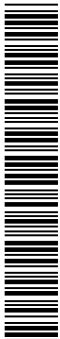
(c) DUTIES.—The task force shall—

(1) assess the effects of the presence of endangered species on military training activities in the live ordnance delivery areas at Barry M. Goldwater Range and in any other areas of the range that are adversely effected by the presence of endangered species;

(2) determine various means of addressing any significant adverse effects on military training activities on Barry M. Goldwater Range that are identified pursuant to paragraph (1); and

(3) determine the benefits and costs associated with the implementation of each means identified under paragraph (2).

(d) USE OF EXPERTS.—The chairperson of the task force may secure for the task force the services of such experts with



1 respect to the duties of the task force as the chairperson con-  
2 siderers advisable to carry out such duties.

3 (e) REPORT.—Not later than February 28, 2005, the task  
4 force shall submit to Congress a report containing—

5 (1) a description of the assessments and determina-  
6 tions made under subsection (c);

7 (2) such recommendations for legislative and adminis-  
8 trative action as the task force considers appropriate; and

9 (3) an evaluation of the utility of task force pro-  
10 ceedings as a means of resolving conflicts between military  
11 training objectives and protection of endangered species at  
12 other military training and testing ranges.

13 **SEC. 323. PUBLIC HEALTH ASSESSMENT OF EXPOSURE**  
14 **TO PERCHLORATE.**

15 (a) EPIDEMIOLOGICAL STUDY OF EXPOSURE TO PER-  
16 CHLORATE.—The Secretary of Defense shall provide for an  
17 independent epidemiological study of exposure to perchlorate in  
18 drinking water. The entity conducting the study shall—

19 (1) assess the incidence of thyroid disease and measur-  
20 able effects of thyroid function in relation to exposure to  
21 perchlorate;

22 (2) ensure that the study is of sufficient scope and  
23 scale to permit the making of meaningful conclusions of the  
24 measurable public health threat associated with exposure to  
25 perchlorate, especially the threat to sensitive subpopula-  
26 tions; and

27 (3) examine thyroid function, including measurements  
28 of urinary iodine and thyroid hormone levels, in a sufficient  
29 number of pregnant women, neonates, and infants exposed  
30 to perchlorate in drinking water and match measurements  
31 of perchlorate levels in the drinking water of each study  
32 participant in order to permit the development of meaning-  
33 ful conclusions on the public health threat to individuals ex-  
34 posed to perchlorate.

35 (b) REVIEW OF EFFECTS OF PERCHLORATE ON ENDO-  
36 CRINE SYSTEM.—The Secretary shall provide for an inde-



pendent review of the effects of perchlorate on the human endocrine system. The entity conducting the review shall assess—

(1) available data on human exposure to perchlorate, including clinical data and data on exposure of sensitive subpopulations, and the levels at which health effects were observed; and

(2) available data on other substances that have endocrine effects similar to perchlorate to which the public is frequently exposed.

(c) PERFORMANCE OF STUDY AND REVIEW.—(1) The Secretary shall provide for the performance of the study under subsection (a) through the Centers for Disease Control, the National Institutes of Health, or another Federal entity with experience in environmental toxicology selected by the Secretary.

(2) The Secretary shall provide for the performance of the review under subsection (b) through the Centers for Disease Control, the National Institutes of Health, or another appropriate Federal research entity with experience in human endocrinology selected by the Secretary. The Secretary shall ensure that the panel conducting the review is composed of individuals with expertise in human endocrinology.

(d) REPORTING REQUIREMENTS.—Not later than June 1, 2005, the Federal entities conducting the study and review under this section shall submit to the Secretary reports containing the results of the study and review.

**SEC. 324. COMPTROLLER GENERAL REVIEW OF ARCTIC MILITARY ENVIRONMENTAL COOPERATION PROGRAM.**

(a) REQUIREMENT FOR REVIEW.—The Comptroller General shall conduct a review of the Arctic Military Environmental Cooperation program, including—

(1) the current and proposed technology development and demonstration role of the program in United States nonproliferation efforts; and

(2) the relationship of the program to the Cooperative Threat Reduction Program specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year



1 1997 (Public Law 104-201; 110 Stat. 2731; 50 U.S.C.  
2 2362 note).

3 (b) ELEMENTS OF REVIEW.—The review shall include an  
4 assessment of the following:

5 (1) Whether the conditions in the Western Pacific re-  
6 gion require an expansion of the Arctic Military Environ-  
7 mental Cooperation program to include that region.

8 (2) The extent to which foreign countries, including  
9 Russia, make financial contributions to the program.

10 (3) The extent to which the Cooperative Threat Re-  
11 duction Program and the G-8 Global Partnership Against  
12 the Spread of Weapons and Materials of Mass Destruction  
13 Initiative use the program.

14 (4) Whether the program is important to the disar-  
15 mament and nonproliferation functions of the Cooperative  
16 Threat Reduction Program.

17 (5) Future-year funding and program plans of the De-  
18 partment of Defense for the program.

19 (c) REPORT ON REVIEW.—Not later than May 1, 2004,  
20 the Comptroller General shall submit to Congress a report con-  
21 taining the results of the review.

## 22 **Subtitle C—Workplace and Depot** 23 **Issues**

### 24 **SEC. 331. EXEMPTION OF CERTAIN FIREFIGHTING SERV-** 25 **ICE CONTRACTS FROM PROHIBITION ON** 26 **CONTRACTS FOR PERFORMANCE OF FIRE-** 27 **FIGHTING FUNCTIONS.**

28 (a) ADDITIONAL EXEMPTION.—Section 2465(b) of title  
29 10, United States Code, is amended by adding at the end the  
30 following new paragraph:

31 “(4) A contract for the performance of firefighting  
32 functions if the contract is—

33 “(A) for a period of one year or less; and

34 “(B) covers only the performance of firefighting  
35 functions that, in the absence of the contract, would  
36 have to be performed by members of the armed forces



1           who are not readily available to perform such functions  
2           by reason of a deployment.”.

3           (b) CONFORMING AMENDMENTS.—Such section is further  
4 amended—

5           (1) by striking “apply—” and inserting “apply to the  
6 following contracts:”;

7           (2) by striking “to a” at the beginning of paragraphs  
8 (1), (2), and (3) and inserting “A”;

9           (3) by striking the semicolon at the end of paragraph  
10 (1) and inserting a period; and

11           (4) by striking “; or” at the end of paragraph (2) and  
12 inserting a period.

13 **SEC. 332. TECHNICAL AMENDMENT RELATING TO CLO-**  
14 **SURE OF SACRAMENTO ARMY DEPOT, CALI-**  
15 **FORNIA.**

16           Section 2466 of title 10, United States Code, is  
17 amended—

18           (1) by striking subsection (d); and

19           (2) by redesignating subsection (e) as subsection (d).

20 **SEC. 333. EXCEPTION TO COMPETITION REQUIREMENT**  
21 **FOR DEPOT-LEVEL MAINTENANCE AND RE-**  
22 **PAIR WORKLOADS PERFORMED BY DEPOT-**  
23 **LEVEL ACTIVITIES.**

24           Section 2469 of title 10, United States Code, is  
25 amended—

26           (1) in subsection (b), by striking “Subsection” and in-  
27 serting “Except as provided in subsection (c), subsection”;

28           (2) by redesignating subsection (c) as subsection (d);  
29 and

30           (3) by inserting after subsection (b) the following new  
31 subsection (c):

32           “(c) EXCEPTION FOR PUBLIC-PRIVATE PARTNERSHIPS.—

33 The requirements of subsection (a) may be waived in the case  
34 of a depot-level maintenance and repair workload that is per-  
35 formed at a Center of Industrial and Technical Excellence des-  
36 ignated under subsection (a) of section 2474 of this title by a  
37 public-private partnership entered into under subsection (b) of





1 such section consisting of a depot-level activity and a private  
2 entity.”.

3 **SEC. 334. RESOURCES-BASED SCHEDULES FOR COMPLE-**  
4 **TION OF PUBLIC-PRIVATE COMPETITIONS**  
5 **FOR PERFORMANCE OF DEPARTMENT OF**  
6 **DEFENSE FUNCTIONS.**

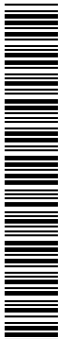
7 (a) APPLICATION OF TIMEFRAMES.—Any interim or final  
8 deadline or other schedule-related milestone for the completion  
9 of a Department of Defense public-private competition shall be  
10 established solely on the basis of considered research and sound  
11 analysis regarding the availability of sufficient personnel, train-  
12 ing, and technical resources to the Department of Defense to  
13 carry out such competition in a timely manner.

14 (b) EXTENSION OF TIMEFRAMES.—(1) The Department of  
15 Defense official responsible for managing a Department of De-  
16 fense public-private competition shall extend any interim or  
17 final deadline or other schedule-related milestone established  
18 (consistent with subsection (a)) for the completion of the com-  
19 petition if the official determines that the personnel, training,  
20 or technical resources available to the Department of Defense  
21 to carry out the competition in a timely manner are insuffi-  
22 cient.

23 (2) A determination under this subsection shall be made  
24 pursuant to procedures prescribed by the Secretary of Defense.

25 **SEC. 335. DELAYED IMPLEMENTATION OF REVISED OF-**  
26 **FICE OF MANAGEMENT AND BUDGET CIR-**  
27 **CULAR A-76 BY DEPARTMENT OF DEFENSE**  
28 **PENDING REPORT.**

29 (a) LIMITATION PENDING REPORT.—No studies or com-  
30 petitions may be conducted under the policies and procedures  
31 contained in the revised Office of Management and Budget Cir-  
32 cular A-76 dated May 29, 2003 (68 Fed. Reg. 32134), relating  
33 to the possible contracting out of commercial activities being  
34 performed, as of such date, by employees of the Department of  
35 Defense, until the end of the 45-day period beginning on the  
36 date on which the Secretary of Defense submits to Congress a  
37 report on the effects of the revisions.



(b) CONTENT OF REPORT.—The report required by subsection (a) shall contain, at a minimum, specific information regarding the following:

(1) The extent to which the revised circular will ensure that employees of the Department of Defense have the opportunity to compete to retain their jobs.

(2) The extent to which the revised circular will provide appeal and protest rights to employees of the Department of Defense.

(3) Identify safeguards in the revised circular to ensure that all public-private competitions are fair, appropriate, and comply with requirements of full and open competition.

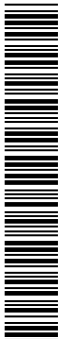
(4) The plans of the Department to ensure an appropriate phase-in period for the revised circular, as recommended by the Commercial Activities Panel of the Government Accounting Office in its April 2002 report to Congress, including recommendations for any legislative changes that may be required to ensure a smooth and efficient phase-in period.

(5) The plans of the Department to provide training to employees of the Department of Defense regarding the revised circular, including how the training will be funded, how employees will be selected to receive the training, and the number of employees likely to receive the training.

(6) The plans of the Department to collect and analyze data on the costs and quality of work contracted out or retained in-house as a result of a sourcing process conducted under the revised circular.

**SEC. 336. PILOT PROGRAM FOR BEST-VALUE SOURCE SELECTION FOR PERFORMANCE OF INFORMATION TECHNOLOGY SERVICES.**

(a) AUTHORITY TO USE BEST-VALUE CRITERION.—The Secretary of Defense may carry out a pilot program for the procurement of information technology services for the Department of Defense that uses a best-value criterion in the selection



1 of the source for the performance of the information technology  
2 services.

3 (b) REQUIRED EXAMINATION UNDER PILOT PROJECT.—  
4 Under the pilot program, the Secretary of Defense shall modify  
5 the examination otherwise required by section 2461(b)(3)(A) of  
6 title 10, United States Code, to be an examination of the per-  
7 formance of an information technology services function by De-  
8 partment of Defense civilian employees and by one or more pri-  
9 vate contractors to demonstrate whether—

10 (1) a change to performance by the private sector will  
11 result in the best value to the Government over the life of  
12 the contract, as determined in accordance with the competi-  
13 tion requirements of Office of Management and Budget  
14 Circular A-76; and

15 (2) certain benefits exist, in addition to price, that  
16 warrant performance of the function by a private sector  
17 source at a cost higher than that of performance by De-  
18 partment of Defense civilian employees.

19 (c) EXEMPTION FOR PILOT PROGRAM.—Section 2462(a)  
20 of title 10, United States Code, does not apply to the procure-  
21 ment of information technology services under the pilot pro-  
22 gram.

23 (d) DURATION OF PILOT PROGRAM.—(1) The authority to  
24 carry out the pilot program begins on the date on which the  
25 Secretary of Defense submits to Congress the report on the ef-  
26 fect of the recent revisions to Office of Management and Budg-  
27 et Circular A-76, as required by section 335 of this Act, and  
28 expires on September 30, 2008.

29 (2) The expiration of the pilot program shall not affect the  
30 selection of the source for the performance of an information  
31 technology services function for the Department of Defense for  
32 which the analysis required by section 2461(b)(3) of title 10,  
33 United States Code, has been commenced before the expiration  
34 date or for which a solicitation has been issued before the expi-  
35 ration date.



(e) GAO REVIEW.—Not later than February 1, 2008, the Comptroller General shall submit to Congress a report containing—

(1) a review of the pilot program to assess the extent to which the pilot program is effective and is equitable for the potential public sources and the potential private sources of information technology services for the Department of Defense; and

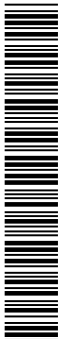
(2) any other conclusions of the Comptroller General resulting from the review.

(f) INFORMATION TECHNOLOGY SERVICE DEFINED.—In this section, the term “information technology service” means any service performed in the operation or maintenance of information technology (as defined in section 11101 of title 40, United States Code) that is necessary for or beneficial to the accomplishment of the authorized functions of the Department of Defense (other than functions which the Secretary of Defense determines must be performed by military or Government personnel).

**SEC. 337. HIGH-PERFORMING ORGANIZATION BUSINESS PROCESS REENGINEERING PILOT PROGRAM.**

(a) PILOT PROGRAM.—The Secretary of Defense shall establish a pilot program under which the Secretary concerned shall create, or continue the implementation of, high-performing organizations through the conduct of a Business Process Reengineering initiative at selected military installations and facilities under the jurisdiction of the Secretary concerned.

(b) EFFECT OF PARTICIPATION IN PILOT PROGRAM.—(1) During the period of an organization’s participation in the pilot program, including the periods referred to in paragraphs (2) and (3) of subsection (f), the Secretary concerned may not require the organization to undergo any Office of Management and Budget Circular A-76 competition or other public-private competition involving any function of the organization covered by the Business Process Reengineering initiative. The organization may elect to undergo such a competition as part of the initiative.



(2) Civilian employee or military personnel positions of the participating organization that are part of the Business Process Reengineering initiative shall be counted toward any numerical goals, target, or quota that the Secretary concerned is required or requested to meet during the term of the pilot program regarding the number of positions to be covered by public-private competitions.

(c) ELIGIBLE ORGANIZATIONS.—Subject to subsection (d), the Secretary concerned may select two types of organizations to participate in the pilot program:

(1) Organizations that underwent a Business Process Reengineering initiative within the preceding five years, achieved major performance enhancements under the initiative, and will be able to sustain previous or achieve new performance goals through the continuation of its existing or completed Business Process Reengineering plan.

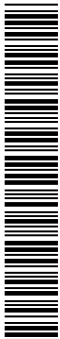
(2) Organizations that have not undergone or have not successfully completed a Business Process Reengineering initiative, but which propose to achieve, and reasonably could reach, enhanced performance goals through implementation of a Business Process Reengineering initiative.

(d) ADDITIONAL ELIGIBILITY REQUIREMENTS.—(1) To be eligible for selection to participate in the pilot program under subsection (c)(1), an organization described in such subsection shall demonstrate, to the satisfaction of the Secretary concerned, the completion of a total organizational assessment that resulted in enhanced performance measures at least comparable to those performance measures that might be achieved through competitive sourcing.

(2) To be eligible for selection to participate in the pilot program under subsection (c)(2), an organization described in such subsection shall identify, to the satisfaction of the Secretary concerned—

(A) functions, processes, and measures to be studied under the Business Process Reengineering initiative;

(B) adequate resources to carry out the Business Process Reengineering initiative; and



1 (C) labor-management agreements in place to ensure  
2 effective implementation of the Business Process Re-  
3 engineering initiative.

4 (e) LIMITATION ON NUMBER OF PARTICIPANTS.—Total  
5 participants in the pilot program is limited to eight military in-  
6 stallations and facilities, with some participants to be drawn  
7 from organizations described in subsection (c)(1) and some par-  
8 ticipants to be drawn from organizations described in sub-  
9 section (c)(2).

10 (f) IMPLEMENTATION AND DURATION.—(1) The imple-  
11 mentation and management of a Business Process Re-  
12 engineering initiative under the pilot program shall be the re-  
13 sponsibility of the commander of the military installation or fa-  
14 cility at which the Business Process Reengineering initiative is  
15 carried out.

16 (2) An organization selected to participate in the pilot pro-  
17 gram shall be given a reasonable initial period, to be deter-  
18 mined by the Secretary concerned, in which the organization  
19 must implement the Business Process Reengineering initiative.  
20 At the end of this period, the Secretary concerned shall deter-  
21 mine whether the organization has achieved initial progress to-  
22 ward designation as a high-performing organization. In the ab-  
23 sence of such progress, the Secretary concerned shall terminate  
24 the organization's participation in the pilot program.

25 (3) If an organization successfully completes implementa-  
26 tion of the Business Process Reengineering initiative under  
27 paragraph (2), the Secretary concerned shall designate the or-  
28 ganization as a high-performing organization and grant the or-  
29 ganization an additional five-year period in which to achieve  
30 projected or planned efficiencies and savings under the pilot  
31 program.

32 (g) REVIEWS AND REPORTS.—The Secretary concerned  
33 shall conduct annual performance reviews of the participating  
34 organizations or functions under the jurisdiction of the Sec-  
35 retary concerned. Reviews and reports shall evaluate organiza-  
36 tional performance measures or functional performance meas-  
37 ures and determine whether organizations are performing satis-



1 factorily for purposes of continuing participation in the pilot  
2 program.

3 (h) PERFORMANCE MEASURES.—Performance measures  
4 utilized in the pilot program should include the following, which  
5 shall be measured against organizational baselines determined  
6 before participation in the pilot program:

7 (1) Costs, savings, and overall financial performance  
8 of the organization.

9 (2) Organic knowledge, skills or expertise.

10 (3) Efficiency and effectiveness of key functions or  
11 processes.

12 (4) Efficiency and effectiveness of the overall organiza-  
13 tion.

14 (5) General customer satisfaction.

15 (i) DEFINITIONS.—In this section

16 (1) The term “Business Process Reengineering” refers  
17 to an organization’s complete and thorough analysis and  
18 reengineering of mission and support functions and proc-  
19 esses to achieve improvements in performance, including a  
20 fundamental reshaping of the way work is done to better  
21 support an organization’s mission and reduce costs.

22 (2) The term “high-performing organization” means  
23 an organization whose performance exceeds that of com-  
24 parable providers, whether public or private.

25 (3) The term “Secretary concerned” means the Sec-  
26 retary of a military department and the Secretary of De-  
27 fense, with respect to matters concerning the Defense  
28 Agencies.

29 **SEC. 338. NAVAL AVIATION DEPOTS MULTI-TRADES**  
30 **DEMONSTRATION PROJECT.**

31 (a) DEMONSTRATION PROJECT REQUIRED.—In accord-  
32 ance with section 4703 of title 5, United States Code, the Sec-  
33 retary of the Navy shall carry out a demonstration project  
34 under which three Naval Aviation Depots are given the flexi-  
35 bility to promote by one grade level workers who are certified  
36 at the journey level as able to perform multiple trades.



1 (b) SELECTION REQUIREMENTS.—As a condition on eligi-  
2 bility for selection to participate in the demonstration project,  
3 the head of a Naval Aviation Depot shall submit to the Sec-  
4 retary a business case analysis and concept plan—

5 (1) that, on the basis of the results of analysis of work  
6 processes, demonstrate that process improvements would  
7 result from the trade combinations proposed to be imple-  
8 mented under the demonstration project; and

9 (2) that describes the improvements in cost, quality, or  
10 schedule of work that are anticipated to result from the  
11 participation in the demonstration project.

12 (c) PARTICIPATING WORKERS.—(1) Actual worker partici-  
13 pation in the demonstration project shall be determined  
14 through competitive selection. Not more than 15 percent of the  
15 wage grade journeyman at a demonstration project location  
16 may be selected to participate.

17 (2) Job descriptions and competency-based training plans  
18 must be developed for each worker while in training under the  
19 demonstration project and once certified as a multi-trade work-  
20 er. A certified multi-trade worker who receives a pay grade pro-  
21 motion under the demonstration project must use each new  
22 skill during at least 25 percent of the worker's work year.

23 (d) FUNDING SOURCE.—Appropriations for operation and  
24 maintenance of the Naval Aviation Depots selected to partici-  
25 pate in the demonstration project shall be used as the source  
26 of funds to carry out the demonstration project, including the  
27 source of funds for pay increases made under the project.

28 (e) DURATION.—The demonstration project shall be con-  
29 ducted during fiscal years 2004 through 2006.

30 (f) REPORT.—Not later than January 15, 2007, the Sec-  
31 retary shall submit a report to Congress describing the results  
32 of the demonstration project.

33 (g) GAO EVALUATION.—The Secretary shall transmit a  
34 copy of the report to the Comptroller General. Within 90 days  
35 after receiving the report, the Comptroller General shall submit  
36 to Congress an evaluation of the report.





## Subtitle D—Other Matters

### SEC. 341. CATALOGING AND STANDARDIZATION FOR DEFENSE SUPPLY MANAGEMENT.

Section 2451 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(d) The Secretary shall coordinate with the Administrator of General Services to enable the use of commercial identifiers for commercial items within the Federal cataloging system.”.

### SEC. 342. SALE OF DEFENSE INFORMATION SYSTEMS AGENCY SERVICES TO CONTRACTORS PERFORMING THE NAVY-MARINE CORPS INTRANET CONTRACT.

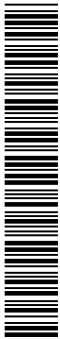
(a) AUTHORITY.—The Secretary of Defense may sell working-capital funded services of the Defense Information Systems Agency to a person outside the Department of Defense for use by that person in the performance of the Navy-Marine Corps Intranet contract.

(b) REIMBURSEMENT.—The Secretary shall require reimbursement of each working-capital fund for the costs of services sold under subsection (a) that were paid for out of such fund. The sources of the reimbursement shall be the appropriation or appropriations funding the Navy-Marine Corps Intranet contract or any cash payments received by the Secretary for the services.

(c) NAVY-MARINE CORPS INTRANET CONTRACT DEFINED.—In this section, the term “Navy-Marine Corps Intranet contract” has the meaning given such term in section 814 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398 (114 Stat. 1654A-217)).

### SEC. 343. PERMANENT AUTHORITY FOR PURCHASE OF CERTAIN MUNICIPAL SERVICES AT INSTALLATIONS IN MONTEREY COUNTY, CALIFORNIA.

(a) AUTHORITY.—Subject to section 2465 of title 10, United States Code, public works, utility, and other municipal services needed for the operation of any Department of Defense



1 asset in Monterey County, California, may be purchased from  
2 government agencies located in that county.

3 (c) REPEAL OF EXISTING TEMPORARY AUTHORITY.—Sec-  
4 tion 816 of the National Defense Authorization Act for Fiscal  
5 Year 1995 (Public Law 103-337; 108 Stat. 2820) is repealed.

6 **SEC. 344. DEPARTMENT OF DEFENSE TELECOMMUNI-**  
7 **CATIONS BENEFIT.**

8 (a) PROVISION OF PREPAID PHONE CARDS.—As soon as  
9 possible after the date of the enactment of this Act, the Sec-  
10 retary of Defense shall provide, wherever practicable, prepaid  
11 phone cards, or an equivalent telecommunications benefit which  
12 includes access to telephone service, to members of the Armed  
13 Forces stationed outside the United States who (as determined  
14 by the Secretary) are eligible for combat zone tax exclusion  
15 benefits due to their service in direct support of Operation En-  
16 during Freedom and Operation Iraqi Freedom to enable those  
17 members to make telephone calls without cost to the member.

18 (b) MONTHLY BENEFIT.—The value of the benefit pro-  
19 vided under subsection (a) to any member in any month, to the  
20 extent the benefit is provided from amounts available to the  
21 Department of Defense, may not exceed—

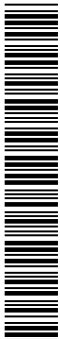
22 (1) \$40; or

23 (2) 120 calling minutes, if the cost to the Department  
24 of Defense of providing such number of calling minutes is  
25 less than the amount specified in paragraph (1).

26 (c) END OF PROGRAM.—The program established by sub-  
27 section (a) shall terminate on September 30, 2004.

28 (d) FUNDING.—(1)(A) In carrying out the program under  
29 this section, the Secretary shall maximize the use of existing  
30 Department of Defense telecommunications programs and ca-  
31 pabilities, free or reduced-cost services of private sector entities,  
32 and programs to enhance morale and welfare.

33 (B) The Secretary may not award a contract to a commer-  
34 cial firm for the purposes of subparagraph (A) other than  
35 through the use of competitive procedures.



(2) The Secretary may accept gifts and donations in order to defray the costs of the program under this section. Such gifts and donations may be accepted from—

(A) any foreign government;

(B) any foundation or other charitable organization, including any that is organized or operates under the laws of a foreign country; and

(C) any source in the private sector of the United States or a foreign country.

(e) DEPLOYMENT OF ADDITIONAL TELEPHONE EQUIPMENT.—If the Secretary of Defense determines that, in order to implement this section as quickly as practicable, it is necessary to provide additional telephones in any area to facilitate telephone calling for which benefits are provided under this section, the Secretary may, consistent with the availability of resources, award competitively bid contracts to one or more commercial entities for the provision and installation of telephones in that area.

(f) NO COMPROMISE OF MILITARY MISSION.—The Secretary of Defense should not take any action under this section that would compromise the military objectives or mission of the Department of Defense.

**SEC. 345. INDEPENDENT ASSESSMENT OF MATERIAL CONDITION OF THE KC-135 AERIAL REFUELING FLEET.**

Not later than May 1, 2004, the Secretary of Defense shall submit to the congressional defense committees an assessment, conducted by an entity outside of the Department of Defense, of the material condition of the fleet of KC-135 aerial refueling aircraft of the Air Force. The assessment shall include the following:

(1) Trend analysis for operational readiness for KC-135E and KC-135R aircraft from fiscal year 1996 through fiscal year 2003.

(2) Trend analysis for the number of manhours of organizational-level and depot-level maintenance required for KC-135E and KC-135R aircraft from fiscal year 1996



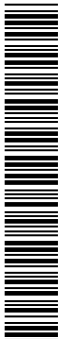
1 through fiscal year 2003, setting forth separately the  
2 manhours required for control and treatment of corrosion.

3 (3) The number of KC-135E and KC-135R aircraft  
4 grounded due to corrosion for each year, and the length of  
5 time each aircraft was grounded pending corrosion repair,  
6 based on maintenance conducted from fiscal year 1996  
7 through fiscal year 2003.

8 (4) An itemization of improved corrosion repair proc-  
9 esses for KC-135E and KC-135R aircraft used between  
10 fiscal year 1996 and fiscal year 2003 which resulted in a  
11 decrease in the number of manhours required for control  
12 and treatment of corrosion.

13 (5) An analysis of the relationship between manhours  
14 for corrosion repair as set forth under paragraph (2) and  
15 the processes set forth under paragraph (4).

16 (6) An analysis of major structural repairs required  
17 due to corrosion for KC-135E and KC-135R aircraft an-  
18 nually from fiscal year 1996 through fiscal year 2003.



4-1

1 **TITLE IV—MILITARY PERSONNEL**  
2 **AUTHORIZATIONS**

**Subtitle A—Active Forces**

Sec. 401. End strengths for active forces.

Sec. 402. Revision in permanent active duty end strength minimum levels.

Sec. 403. Personnel strength authorization and accounting process.

**Subtitle B—Reserve Forces**

Sec. 411. End strengths for Selected Reserve.

Sec. 412. End strengths for Reserves on active duty in support of the reserves.

Sec. 413. End strengths for military technicians (dual status).

Sec. 414. Fiscal year 2004 limitations on non-dual status technicians.

Sec. 415. Permanent limitations on number of non-dual status technicians.

**Subtitle C—Authorizations of Appropriations**

Sec. 421. Military personnel.

Sec. 422. Armed Forces Retirement Home.

3 **Subtitle A—Active Forces**

4 **SEC. 401. END STRENGTHS FOR ACTIVE FORCES.**

5 The Armed Forces are authorized strengths for active  
6 duty personnel as of September 30, 2004, as follows:

7 (1) The Army, 482,400.

8 (2) The Navy, 373,800.

9 (3) The Marine Corps, 175,000.

10 (4) The Air Force, 359,300.

11 **SEC. 402. REVISION IN PERMANENT ACTIVE DUTY END**  
12 **STRENGTH MINIMUM LEVELS.**

13 Section 691(b) of title 10, United States Code, is amended  
14 as follows:

15 (1) ARMY.—Paragraph (1) is amended by striking  
16 “480,000” and inserting “482,400”.

17 (2) NAVY.—Paragraph (2) is amended by striking  
18 “375,700” and inserting “373,800”.

19 (3) AIR FORCE.—Paragraph (4) is amended by strik-  
20 ing “359,000” and inserting “359,300”.

21 **SEC. 403. PERSONNEL STRENGTH AUTHORIZATION AND**  
22 **ACCOUNTING PROCESS.**

23 (a) QUARTERLY STRENGTH LEVELS.—Section 115 of title  
24 10, United States Code, is amended—



(1) by redesignating subsections (c), (e), and (g) as subsections (e), (g), and (c), respectively, and by transferring—

(A) subsection (e), as so redesignated, so as to appear after subsection (d);

(B) subsection (g), as so redesignated, so as to appear after subsection (f); and

(C) subsection (c), as so redesignated, so as to appear after subsection (b);

(2) by transferring subsection (d) to the end of such section and redesignating that subsection as subsection (h); and

(3) by inserting after subsection (c), as redesignated and transferred by paragraph (1), the following new subsection (d):

“(d) END-OF-QUARTER STRENGTH LEVELS.—(1) The Secretary of Defense shall prescribe and include in the budget justification documents submitted to Congress in support of the President’s budget for the Department of Defense for any fiscal year the Secretary’s proposed end-of-quarter strengths for each of the first three quarters of the fiscal year for which the budget is submitted, in addition to the Secretary’s proposed fiscal-year end-strengths for that fiscal year. Such end-of-quarter strengths shall be submitted for each category of personnel for which end strengths are required to be authorized by law under subsection (a) or (c). The Secretary shall ensure that resources are provided in the budget at a level sufficient to support the end-of-quarter and fiscal-year end-strengths as submitted.

“(2)(A) After annual end-strength levels required by subsections (a) and (c) are authorized by law for a fiscal year, the Secretary of Defense shall promptly prescribe end-of-quarter strength levels for the first three quarters of that fiscal year applicable to each such end-strength level. Such end-of-quarter strength levels shall be established for any fiscal year as levels to be achieved in meeting each of those annual end-strength levels authorized by law in accordance with subsection (a) (as



1 such levels may be adjusted pursuant to subsection (e)) and  
2 subsection (c).

3 “(B) At least annually, the Secretary of Defense shall es-  
4 tablish for each of the armed forces (other than the Coast  
5 Guard) the maximum permissible variance of actual strength  
6 for an armed force at the end of any given quarter from the  
7 end-of-quarter strength established pursuant to subparagraph  
8 (A). Such variance shall be such that it promotes the maintain-  
9 ing of the strength necessary to achieve the end-strength levels  
10 authorized in accordance with subsection (a) (as adjusted pur-  
11 suant to subsection (e)) and subsection (c).

12 “(3) Whenever the Secretary establishes an end-of-quarter  
13 strength level under subparagraph (A) of paragraph (2), or  
14 modifies a strength level under the authority provided in sub-  
15 paragraph (B) of paragraph (2), the Secretary shall notify the  
16 Committee on Armed Services of the Senate and the Committee  
17 on Armed Services of the House of Representatives of that  
18 strength level or of that modification, as the case may be.”.

19 (b) CONFORMING AND STYLISTIC AMENDMENTS.—Such  
20 section is further amended—

21 (1) in subsection (a), by inserting “ACTIVE-DUTY AND  
22 SELECTED RESERVE END STRENGTHS TO BE AUTHOR-  
23 IZED BY LAW.—” after “(a)”;

24 (2) in subsection (b), by inserting “LIMITATION  
25 ON APPROPRIATIONS FOR MILITARY PERSONNEL.—” after  
26 “(b)”;

27 (3) in subsection (c), as redesignated and transferred  
28 by subsection (a)(1), by inserting “MILITARY TECHNICIAN  
29 (DUAL STATUS) END STRENGTHS TO BE AUTHORIZED BY  
30 LAW.—” after “(c)”;

31 (4) in subsection (e), as redesignated and transferred  
32 by subsection (a)(1), by inserting “AUTHORITY FOR SEC-  
33 RETARY OF DEFENSE VARIANCES FOR ACTIVE-DUTY AND  
34 SELECTED RESERVE END STRENGTHS.—” after “(e)”;

35 (5) in subsection (f)—



4-4

1 (A) by inserting “AUTHORITY FOR SERVICE SEC-  
2 RETARY VARIANCES FOR ACTIVE-DUTY END  
3 STRENGTHS.—” after “(f)”; and

4 (B) in paragraph (2), by striking “subsection  
5 (c)(1)” and inserting “subsection (e)(1)”;

6 (6) in subsection (g), as redesignated and transferred  
7 by subsection (a)(1), by inserting “ADJUSTMENT WHEN  
8 COAST GUARD IS OPERATING AS A SERVICE IN THE  
9 NAVY.—” after “(g)”; and

10 (7) in subsection (h), as redesignated and transferred  
11 by subsection (a)(2), by inserting “CERTAIN ACTIVE-DUTY  
12 PERSONNEL EXCLUDED FROM COUNTING FOR ACTIVE-  
13 DUTY END STRENGTHS.—” after “(h)”.

14 (c) CROSS REFERENCE AMENDMENTS.—Section 10216 of  
15 such title is amended by striking “section 115(g)” each place  
16 it appears and inserting “section 115(c)”.

17 (d) EFFECTIVE DATE.—Subsection (d) of section 115 of  
18 title 10, United States Code, as added by subsection (a)(3),  
19 shall apply with respect to the budget request for fiscal year  
20 2005 and thereafter.

## 21 Subtitle B—Reserve Forces

### 22 SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

23 (a) IN GENERAL.—The Armed Forces are authorized  
24 strengths for Selected Reserve personnel of the reserve compo-  
25 nents as of September 30, 2004, as follows:

26 (1) The Army National Guard of the United States,  
27 350,000.

28 (2) The Army Reserve, 205,000.

29 (3) The Naval Reserve, 85,900.

30 (4) The Marine Corps Reserve, 39,600.

31 (5) The Air National Guard of the United States,  
32 107,030.

33 (6) The Air Force Reserve, 75,800.

34 (7) The Coast Guard Reserve, 10,000.





(b) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.

**SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.**

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2004, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 25,599.

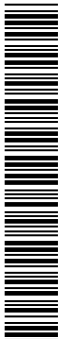
(2) The Army Reserve, 14,374.

(3) The Naval Reserve, 14,384.

(4) The Marine Corps Reserve, 2,261.

(5) The Air National Guard of the United States, 12,191.

(6) The Air Force Reserve, 1,660.



1   **SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS**  
2                   **(DUAL STATUS).**

3           The minimum number of military technicians (dual status)  
4   as of the last day of fiscal year 2004 for the reserve compo-  
5   nents of the Army and the Air Force (notwithstanding section  
6   129 of title 10, United States Code) shall be the following:

7           (1) For the Army Reserve, 6,949.

8           (2) For the Army National Guard of the United  
9   States, 24,589.

10          (3) For the Air Force Reserve, 9,991.

11          (4) For the Air National Guard of the United States,  
12   22,806.

13   **SEC. 414. FISCAL YEAR 2004 LIMITATIONS ON NON-DUAL**  
14                   **STATUS TECHNICIANS.**

15          (a) LIMITATIONS.—(1) Within the limitation provided in  
16   section 10217(c)(2) of title 10, United States Code, the num-  
17   ber of non-dual status technicians employed by the National  
18   Guard as of September 30, 2004, may not exceed the following:

19           (A) For the Army National Guard of the United  
20   States, 1,600.

21           (B) For the Air National Guard of the United States,  
22   350.

23          (2) The number of non-dual status technicians employed  
24   by the Army Reserve as of September 30, 2004, may not ex-  
25   ceed 910.

26          (3) The number of non-dual status technicians employed  
27   by the Air Force Reserve as of September 30, 2004, may not  
28   exceed 90.

29          (b) NON-DUAL STATUS TECHNICIANS DEFINED.—In this  
30   section, the term “non-dual status technician” has the meaning  
31   given that term in section 10217(a) of title 10, United States  
32   Code.

33   **SEC. 415. PERMANENT LIMITATIONS ON NUMBER OF**  
34                   **NON-DUAL STATUS TECHNICIANS.**

35          Section 10217(c) of title 10, United States Code, is  
36   amended by striking “and Air Force Reserve may not exceed



4-7

1 175” and inserting “may not exceed 595 and by the Air Force  
2 Reserve may not exceed 90”.

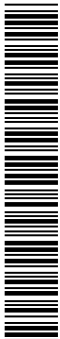
3 **Subtitle C—Authorizations of**  
4 **Appropriations**

5 **SEC. 421. MILITARY PERSONNEL.**

6 There is hereby authorized to be appropriated to the De-  
7 partment of Defense for military personnel for fiscal year 2004  
8 a total of \$98,908,400,000. The authorization in the preceding  
9 sentence supersedes any other authorization of appropriations  
10 (definite or indefinite) for such purpose for fiscal year 2004.

11 **SEC. 422. ARMED FORCES RETIREMENT HOME.**

12 There is hereby authorized to be appropriated for fiscal  
13 year 2004 from the Armed Forces Retirement Home Trust  
14 Fund the sum of \$65,279,000 for the operation of the Armed  
15 Forces Retirement Home.



F:\TAD\ASCR04\H1588.CR



F:\V8\110703\110703.012  
November 7, 2003 (2:14 AM)

1       **TITLE V—MILITARY PERSONNEL**  
2       **POLICY**

**Subtitle A—Officer Personnel Matters**

- Sec. 501. Standardization of qualifications for appointment as service chief.  
Sec. 502. Eligibility for appointment as Chief of Army Veterinary Corps.  
Sec. 503. Repeal of required grade of defense attaché in France.  
Sec. 504. Repeal of termination provisions for certain authorities relating to management of general and flag officers in certain grades.  
Sec. 505. Retention of health professions officers to fulfill active-duty service commitments following promotion nonselection.  
Sec. 506. Permanent authority to reduce three-year time-in-grade requirement for retirement in grade for officers in grades above major and lieutenant commander.  
Sec. 507. Contingent exclusion from officer strength and distribution-in-grade limitations for officer serving as Associate Director of Central Intelligence for Military Support.  
Sec. 508. Reappointment of incumbent Chief of Naval Operations.  
Sec. 509. Secretary of Defense approval required for practice of wearing uniform insignia of higher grade known as “frocking”.

**Subtitle B—Reserve Component Matters**

- Sec. 511. Streamlined process for continuation of officers on the Reserve Active-Status List.  
Sec. 512. Consideration of Reserve officers for position vacancy promotions in time of war or national emergency.  
Sec. 513. Authority for delegation of required secretarial special finding for placement of certain retired members in Ready Reserve.  
Sec. 514. Authority to provide expenses of Army and Air Staff personnel and National Guard Bureau personnel attending national conventions of certain military associations.  
Sec. 515. Expanded authority for use of Ready Reserve in response to terrorism.  
Sec. 516. National Guard officers on active duty in command of National Guard units.  
Sec. 517. Presidential report on mobilization of reserve component personnel and Secretary of Defense assessment.  
Sec. 518. Authority for the use of operation and maintenance funds for promotional activities of the National Committee for Employer Support of the Guard and Reserve.

**Subtitle C—ROTC and Military Service Academies**

- Sec. 521. Expanded educational assistance authority for cadets and midshipmen receiving ROTC scholarships.  
Sec. 522. Increase in allocation of scholarships under Army Reserve ROTC scholarship program to students at military junior colleges.  
Sec. 523. Authority for nonscholarship senior ROTC sophomores to voluntarily contract for and receive subsistence allowance.  
Sec. 524. Appointments to military service academies from nominations made by delegates from Guam, Virgin Islands, and American Samoa.  
Sec. 525. Readmission to service academies of certain former cadets and midshipmen.



## 5-2

- Sec. 526. Defense task force on sexual harassment and violence at the military service academies.
- Sec. 527. Actions to address sexual harassment and violence at the service academies.
- Sec. 528. Study and report related to permanent professors at the United States Air Force Academy.
- Sec. 529. Dean of the faculty of the United States Air Force Academy.

**Subtitle D—Other Military Education and Training Matters**

- Sec. 531. Authority for the Marine Corps University to award the degree of Master of Operational Studies.
- Sec. 532. Authorization for Naval Postgraduate School to provide instruction to enlisted members participating in certain programs.
- Sec. 533. Cost reimbursement requirements for personnel receiving instruction at the Air Force Institute of Technology.
- Sec. 534. Inclusion of accrued interest in amounts that may be repaid under Selected Reserve critical specialties education loan repayment program.
- Sec. 535. Funding of education assistance enlistment incentives to facilitate national service through Department of Defense Education Benefits Fund.
- Sec. 536. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
- Sec. 537. Impact aid eligibility for heavily impacted local educational agencies affected by privatization of military housing.

**Subtitle E—Administrative Matters**

- Sec. 541. High-tempo personnel management and allowance.
- Sec. 542. Enhanced retention of accumulated leave for high-deployment members.
- Sec. 543. Standardization of statutory authorities for exemptions from requirement for access to secondary schools by military recruiters.
- Sec. 544. Procedures for consideration of applications for award of the Purple Heart medal to veterans held as prisoners of war before April 25, 1962.
- Sec. 545. Authority for Reserve and retired regular officers to hold State and local office notwithstanding call to active duty.
- Sec. 546. Policy on public identification of casualties.
- Sec. 547. Space personnel career fields.
- Sec. 548. Department of Defense Joint Advertising, Market Research, and Studies program.
- Sec. 549. Limitation on force structure reductions in Naval and Marine Corps Reserve aviation squadrons.

**Subtitle F—Military Justice Matters**

- Sec. 551. Extended limitation period for prosecution of child abuse cases in courts-martial.
- Sec. 552. Clarification of blood alcohol content limit for the offense under the Uniform Code of Military Justice of drunken operation of a vehicle, aircraft, or vessel.

**Subtitle G—Benefits**

- Sec. 561. Additional classes of individuals eligible to participate in the Federal long-term care insurance program.
- Sec. 562. Authority to transport remains of retirees and retiree dependents who die in military treatment facilities.



Sec. 563. Eligibility for dependents of certain mobilized reservists stationed overseas to attend defense dependents schools overseas.

#### **Subtitle H—Domestic Violence**

Sec. 571. Travel and transportation for dependents relocating for reasons of personal safety.

Sec. 572. Commencement and duration of payment of transitional compensation.

Sec. 573. Exceptional eligibility for transitional compensation.

Sec. 574. Types of administrative separations triggering coverage.

Sec. 575. Comptroller General review and report.

Sec. 576. Fatality reviews.

Sec. 577. Sense of Congress.

#### **Subtitle I—Other Matters**

Sec. 581. Recognition of military families.

Sec. 582. Permanent authority for support for certain chaplain-led military family support programs.

Sec. 583. Department of Defense-Department of Veterans Affairs Joint Executive Committee.

Sec. 584. Review of the 1991 death of Marine Corps Colonel James E. Sabow.

Sec. 585. Policy on concurrent deployment to combat zones of both military spouses of military families with minor children.

Sec. 586. Congressional notification of amendment or cancellation of Department of Defense directive relating to reasonable access to military installations for certain personal commercial solicitation.

Sec. 587. Study of National Guard Challenge Program.

Sec. 588. Findings and sense of Congress on reward for information leading to resolution of status of members of the Armed Forces who remain unaccounted for.

### **Subtitle A—Officer Personnel Matters**

#### **SEC. 501. STANDARDIZATION OF QUALIFICATIONS FOR APPOINTMENT AS SERVICE CHIEF.**

(a) CHIEF OF NAVAL OPERATIONS.—Section 5033(a)(1) of title 10, United States Code, is amended by striking “from officers on the active-duty list in the line of the Navy who are eligible to command at sea and who hold the grade of rear admiral or above” and inserting “from the flag officers of the Navy”.

(b) COMMANDANT OF THE MARINE CORPS.—Section 5043(a)(1) of title 10, United States Code, is amended by striking “from officers on the active-duty list of the Marine Corps not below the grade of colonel” and inserting “from the general officers of the Marine Corps”.



1   **SEC. 502. ELIGIBILITY FOR APPOINTMENT AS CHIEF OF**  
2                   **ARMY VETERINARY CORPS.**

3           (a) APPOINTMENT FROM AMONG MEMBERS OF THE  
4   CORPS.—Section 3084 of title 10, United States Code, is  
5   amended by inserting after “The Chief of the Veterinary Corps  
6   of the Army” the following: “shall be appointed from among of-  
7   ficers of the Veterinary Corps. The Chief of the Veterinary  
8   Corps”.

9           (b) APPLICABILITY.—The amendment made by subsection  
10   (a) shall apply to appointments of the Chief of the Veterinary  
11   Corps of the Army that are made on or after the date of the  
12   enactment of this Act.

13   **SEC. 503. REPEAL OF REQUIRED GRADE OF DEFENSE**  
14                   **ATTACHÉ IN FRANCE.**

15           (a) IN GENERAL.—Section 714 of title 10, United States  
16   Code, is repealed.

17           (b) CONFORMING AMENDMENT.—The table of sections at  
18   the beginning of chapter 41 of such title is amended by striking  
19   the item relating to section 714.

20   **SEC. 504. REPEAL OF TERMINATION PROVISIONS FOR**  
21                   **CERTAIN AUTHORITIES RELATING TO MAN-**  
22                   **AGEMENT OF GENERAL AND FLAG OFFICERS**  
23                   **IN CERTAIN GRADES.**

24           (a) SENIOR JOINT OFFICER POSITIONS.—Section 604 of  
25   title 10, United States Code, is amended by striking subsection  
26   (c)

27           (b) DISTRIBUTION OF OFFICERS ON ACTIVE DUTY IN  
28   GENERAL AND FLAG OFFICER GRADES.—Section 525(b)(5) of  
29   such title is amended by striking subparagraph (C).

30           (c) AUTHORIZED STRENGTH FOR GENERAL AND FLAG  
31   OFFICERS ON ACTIVE DUTY.—Section 526(b) of such title is  
32   amended by striking paragraph (3).

33   **SEC. 505. RETENTION OF HEALTH PROFESSIONS OFFI-**  
34                   **CERS TO FULFILL ACTIVE-DUTY SERVICE**  
35                   **COMMITMENTS FOLLOWING PROMOTION**  
36                   **NONSELECTION.**

37           (a) IN GENERAL.—Section 632 of title 10, United States  
38   Code, is amended—





5–5

1 (1) in subsection (a)(1), by inserting “except as pro-  
2 vided in paragraph (3) and in subsection (c),” before “be  
3 discharged”; and

4 (2) by adding at the end the following new subsection:

5 “(c)(1) If a health professions officer described in para-  
6 graph (2) is subject to discharge under subsection (a)(1) and,  
7 as of the date on which the officer is to be discharged under  
8 that paragraph, the officer has not completed a period of active  
9 duty service obligation that the officer incurred under section  
10 2005, 2114, 2123, or 2603 of this title, the officer shall be re-  
11 tained on active duty until completion of such active duty serv-  
12 ice obligation, and then be discharged under that subsection,  
13 unless sooner retired or discharged under another provision of  
14 law.

15 “(2) The Secretary concerned may waive the applicability  
16 of paragraph (1) to any officer if the Secretary determines that  
17 completion of the active duty service obligation of that officer  
18 is not in the best interest of the service.

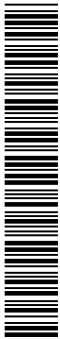
19 “(3) This subsection applies to a medical officer or dental  
20 officer or an officer appointed in a medical skill other than as  
21 a medical officer or dental officer (as defined in regulations  
22 prescribed by the Secretary of Defense).”.

23 (b) TECHNICAL AMENDMENTS.—Sections 630(2),  
24 631(a)(3), and 632(a)(3) of such title are amended by striking  
25 “clause” and inserting “paragraph”.

26 (c) EFFECTIVE DATE.—The amendments made by sub-  
27 section (a) shall not apply in the case of an officer who as of  
28 the date of the enactment of this Act is required to be dis-  
29 charged under section 632(a)(1) of title 10, United States  
30 Code, by reason of having failed of selection for promotion to  
31 the next higher regular grade a second time.

32 **SEC. 506. PERMANENT AUTHORITY TO REDUCE THREE-**  
33 **YEAR TIME-IN-GRADE REQUIREMENT FOR**  
34 **RETIREMENT IN GRADE FOR OFFICERS IN**  
35 **GRADES ABOVE MAJOR AND LIEUTENANT**  
36 **COMMANDER.**

37 (a) ACTIVE COMPONENT OFFICERS.—Subsection (a)(2)(A)  
38 of section 1370 of title 10, United States Code, is amended by



1 striking “in the case of retirements effective during the period  
2 beginning on October 1, 2002, and ending on December 31,  
3 2003”.

4 (b) RESERVE COMPONENT OFFICERS.—Subsection  
5 (d)(5)(A) of such section is amended by striking “2 years” and  
6 all that follows and inserting “two years.”.

7 **SEC. 507. CONTINGENT EXCLUSION FROM OFFICER**  
8 **STRENGTH AND DISTRIBUTION-IN-GRADE**  
9 **LIMITATIONS FOR OFFICER SERVING AS AS-**  
10 **SOCIATE DIRECTOR OF CENTRAL INTEL-**  
11 **LIGENCE FOR MILITARY SUPPORT.**

12 (a) ASSOCIATE DIRECTOR NOT COUNTED.—Chapter 32 of  
13 title 10, United State Code, is amended by adding at the end  
14 the following new section:

15 **“§ 528. Exclusion: officer serving as Associate Di-**  
16 **rector of Central Intelligence for Military**  
17 **Support**

18 “(a) When none of the individuals serving in a position  
19 specified in subsection (b) is an officer of the armed forces, an  
20 officer of the armed forces assigned to the position of Associate  
21 Director of Central Intelligence for Military Support, while  
22 serving in that position, shall not be counted against the num-  
23 bers and percentages of officers of the grade of that officer au-  
24 thorized for that officer’s armed force.

25 “(b) The positions referred to in subsection (a) are the fol-  
26 lowing:

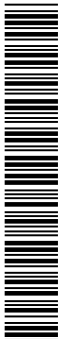
27 “(1) Director of Central Intelligence.

28 “(2) Deputy Director of Central Intelligence.

29 “(3) Deputy Director of Central Intelligence for Com-  
30 munity Management.”.

31 (b) CLERICAL AMENDMENT.—The table of sections at the  
32 beginning of such chapter is amended by adding at the end the  
33 following new item:

“528. Exclusion: Associate Director of Central Intelligence for Military Sup-  
port.”.



1   **SEC. 508. REAPPOINTMENT OF INCUMBENT CHIEF OF**  
2                   **NAVAL OPERATIONS.**

3           Notwithstanding the provisions of section 5033(a)(1) of  
4   title 10, United States Code, the President, by and with the ad-  
5   vice and consent of the Senate, may reappoint the officer serv-  
6   ing as Chief of Naval Operations on October 1, 2003, for an  
7   additional term as Chief of Naval Operations. Such a re-  
8   appointment shall be for a term of not more than two years.

9   **SEC. 509. SECRETARY OF DEFENSE APPROVAL RE-**  
10                   **QUIRED FOR PRACTICE OF WEARING UNI-**  
11                   **FORM INSIGNIA OF HIGHER GRADE KNOWN**  
12                   **AS “FROCKING”.**

13           (a) OSD APPROVAL REQUIRED.—Section 777(b) of title  
14   10, United States Code, is amended—

15               (1) by striking “and” at the end of paragraph (1);

16               (2) by striking the period at the end of paragraph (2)  
17   and inserting “; and”; and

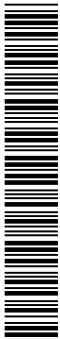
18               (3) by adding at the end the following new paragraph:

19               “(3) in the case of an officer selected for promotion  
20   to a grade above colonel or, in the case of an officer of the  
21   Navy, a grade above captain—

22               “(A) authority for that officer to wear the insignia  
23   of that grade has been approved by the Secretary of  
24   Defense (or a civilian officer within the Office of the  
25   Secretary of Defense whose appointment was made  
26   with the advice and consent of the Senate and to whom  
27   the Secretary delegates such approval authority); and

28               “(B) the Secretary of Defense has submitted to  
29   Congress a written notification of the intent to author-  
30   ize the officer to wear the insignia for that grade and  
31   a period of 30 days has elapsed after the date of the  
32   notification.”.

33           (b) EFFECTIVE DATE.—Paragraph (3) of subsection (b)  
34   of section 777 of title 10, United States Code, as added by sub-  
35   section (a), shall not apply with respect to the wearing by an  
36   officer of insignia for a grade that was authorized under that  
37   section before the date of the enactment of this Act.



## Subtitle B—Reserve Component Matters

### SEC. 511. STREAMLINED PROCESS FOR CONTINUATION OF OFFICERS ON THE RESERVE ACTIVE-STA- TUS LIST.

(a) REPEAL OF REQUIREMENT FOR USE OF SELECTION  
BOARDS.—Section 14701 of title 10, United States Code, is  
amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “by a selection  
board convened under section 14101(b) of this title”  
and inserting “under regulations prescribed by the Sec-  
retary of Defense”; and

(B) in paragraph (6), by striking “as a result of  
the convening of a selection board under section  
14101(b) of this title” and inserting “under regulations  
prescribed under paragraph (1)”; and

(2) by striking subsections (b) and (c); and

(3) by redesignating subsection (d) as subsection (b).

(b) CONFORMING AMENDMENTS.—(1) Section 14101(b) of  
such title is amended—

(A) by striking “CONTINUATION BOARDS” and insert-  
ing “SELECTIVE EARLY SEPARATION BOARDS”;

(B) by striking paragraph (1);

(C) by redesignating paragraphs (2) and (3) as para-  
graphs (1) and (2), respectively; and

(D) by striking the last sentence.

(2) Section 14102(a) of such title is amended by striking  
“Continuation boards” and inserting “Selection boards con-  
vened under section 14101(b) of this title”.

(3) Section 14705(b)(1) of such title is amended by strik-  
ing “continuation board” and inserting “selection board”.

### SEC. 512. CONSIDERATION OF RESERVE OFFICERS FOR POSITION VACANCY PROMOTIONS IN TIME OF WAR OR NATIONAL EMERGENCY.

(a) PROMOTION CONSIDERATION WHILE ON ACTIVE-DUTY  
LIST.—(1) Subsection (d) of section 14317 of title 10, United



1 States Code, is amended by striking “If a reserve officer” and  
2 inserting “Except as provided in subsection (e), if a reserve of-  
3 ficer”.

4 (2) Subsection (e) of such section is amended to read as  
5 follows:

6 “(e) OFFICERS ORDERED TO ACTIVE DUTY IN TIME OF  
7 WAR OR NATIONAL EMERGENCY.—(1) A reserve officer who is  
8 not on the active-duty list and who is ordered to active duty  
9 in time of war or national emergency may, if eligible, be consid-  
10 ered for promotion—

11 “(A) by a mandatory promotion board convened under  
12 section 14101(a) of this title or a special selection board  
13 convened under section 14502 of this title; or

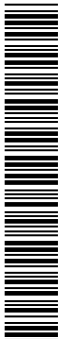
14 “(B) in the case of an officer who has been ordered  
15 to or is serving on active duty in support of a contingency  
16 operation, by a vacancy promotion board convened under  
17 section 14101(a) of this title.

18 “(2) An officer may not be considered for promotion under  
19 this subsection after the end of the two-year period beginning  
20 on the date on which the officer is ordered to active duty.

21 “(3) An officer may not be considered for promotion under  
22 this subsection during a period when the operation of this sec-  
23 tion has been suspended by the President under section 123(a)  
24 of this title.

25 “(4) Consideration of an officer for promotion under this  
26 subsection shall be under regulations prescribed by the Sec-  
27 retary of the military department concerned.”.

28 (b) CONFORMING AMENDMENT.—Section 14315(a)(1) of  
29 such title is amended by striking “as determined by the Sec-  
30 retary concerned, is available” and inserting “under regulations  
31 prescribed by the Secretary concerned, has been rec-  
32 ommended”.



5-10

1   **SEC. 513. AUTHORITY FOR DELEGATION OF REQUIRED**  
2                   **SECRETARIAL SPECIAL FINDING FOR**  
3                   **PLACEMENT OF CERTAIN RETIRED MEM-**  
4                   **BERS IN READY RESERVE.**

5           The last sentence of section 10145(d) of title 10, United  
6 States Code, is amended to read as follows: “The authority of  
7 the Secretary concerned under the preceding sentence may not  
8 be delegated—

9           “(1) to a civilian officer or employee of the military  
10          department concerned below the level of Assistant Sec-  
11          retary; or

12          “(2) to a member of the armed forces below the level  
13          of the lieutenant general or vice admiral in an armed force  
14          with responsibility for military personnel policy in that  
15          armed force.”.

16   **SEC. 514. AUTHORITY TO PROVIDE EXPENSES OF ARMY**  
17                   **AND AIR STAFF PERSONNEL AND NATIONAL**  
18                   **GUARD BUREAU PERSONNEL ATTENDING**  
19                   **NATIONAL CONVENTIONS OF CERTAIN MILI-**  
20                   **TARY ASSOCIATIONS.**

21          (a) AUTHORITY.—Section 107(a)(2) of title 32, United  
22 States Code, is amended—

23           (1) by striking “officers” and inserting “members”;

24           (2) by striking “Army General Staff” and inserting  
25          “Army Staff”; and

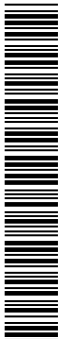
26           (3) by striking “the National Guard Association of the  
27          United States” and inserting “the Enlisted Association of  
28          the National Guard of the United States, the National  
29          Guard Association of the United States,”.

30          (b) EFFECTIVE DATE.—The amendments made by sub-  
31          section (a) shall not apply with respect to funds appropriated  
32          for a fiscal year before fiscal year 2004.

33   **SEC. 515. EXPANDED AUTHORITY FOR USE OF READY**  
34                   **RESERVE IN RESPONSE TO TERRORISM.**

35          Section 12304 of title 10, United States Code, is  
36          amended—

37           (1) in subsection (b)(2), by striking “catastrophic”  
38          and inserting “significant”; and



1 (2) by adding at the end of subsection (c) the fol-  
2 lowing new paragraph:

3 “(3) No unit or member of a reserve component may be  
4 ordered to active duty under this section to provide assistance  
5 referred to in subsection (b) unless the President determines  
6 that the requirements for responding to an emergency referred  
7 to in that subsection have exceeded, or will exceed, the response  
8 capabilities of local, State, and Federal civilian agencies.”.

9 **SEC. 516. NATIONAL GUARD OFFICERS ON ACTIVE DUTY**  
10 **IN COMMAND OF NATIONAL GUARD UNITS.**

11 (a) CONTINUATION IN STATE STATUS.—Subsection (a) of  
12 section 325 of title 32, United States Code, is amended—

13 (1) by striking “(a) Each” and inserting “(a) RELIEF  
14 REQUIRED.—(1) Except as provided in paragraph (2),  
15 each”; and

16 (2) by adding at the end the following new paragraph:

17 “(2) An officer of the Army National Guard of the United  
18 States or the Air National Guard of the United States is not  
19 relieved from duty in the National Guard of his State or Terri-  
20 tory, or of Puerto Rico or the District of Columbia, under para-  
21 graph (1) while serving on active duty in command of a Na-  
22 tional Guard unit if—

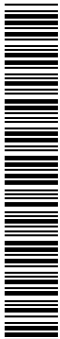
23 “(A) the President authorizes such service in both  
24 duty statuses; and

25 “(B) the Governor of his State or Territory or Puerto  
26 Rico, or the commanding general of the District of Colum-  
27 bia National Guard, as the case may be, consents to such  
28 service in both duty statuses.”.

29 (b) FORMAT AMENDMENT.—Subsection (b) of such section  
30 is amended by inserting “RETURN TO STATE STATUS.—” after  
31 “(b)”.

32 **SEC. 517. PRESIDENTIAL REPORT ON MOBILIZATION OF**  
33 **RESERVE COMPONENT PERSONNEL AND**  
34 **SECRETARY OF DEFENSE ASSESSMENT.**

35 (a) PRESIDENTIAL REPORT—Not later than six months  
36 after the date of the enactment of this Act, the President shall  
37 transmit to Congress a report on the mobilization during fiscal



1 years 2002 and 2003 of members of the reserve components.  
2 The report shall include, for each of those fiscal years, the fol-  
3 lowing:

4 (1) The number of members of the reserve components  
5 who were called or ordered to active duty under a provision  
6 of law specified in section 101(a)(13)(B) of title 10, United  
7 States Code.

8 (2) Of the members counted under paragraph (1), the  
9 number who, under a call or order to active duty referred  
10 to in paragraph (1), served on active duty for one year or  
11 more (including any extension on active duty) and, for  
12 those members, specification of their military specialties  
13 and the number of such members in each such specialty.

14 (3) Of the members counted under paragraph (1), the  
15 number who, under a provision of law referred to in para-  
16 graph (1), were called or ordered to active duty more than  
17 once and, for those members, specification of their military  
18 specialties and the number of such members in each such  
19 specialty.

20 (b) ASSESSMENT BY SECRETARY OF DEFENSE.—Not later  
21 than one year after the date of the enactment of this Act, the  
22 Secretary of Defense shall submit to the Committee on Armed  
23 Services of the Senate and the Committee on Armed Services  
24 of the House of Representatives the following:

25 (1) A description of the effects on reserve component  
26 recruitment and retention that have resulted from—

27 (A) the calls and orders of Reserves to active duty  
28 during fiscal years 2002 and 2003; and

29 (B) the tempo of the service of the Reserves on  
30 the active duty to which called or ordered.

31 (2) A description of changes in the Armed Forces, in-  
32 cluding any changes in the allocation of roles and missions,  
33 in force structure, and in capabilities between the active  
34 components and the reserve components of the Armed  
35 Forces, that are envisioned by the Secretary of Defense on  
36 the basis of—

37 (A) the effects discussed under paragraph (1); or





(B) the lessons learned from calling and ordering the reserve components to active duty during fiscal years 2002 and 2003.

(C) future military force structure and capabilities requirements.

(3) On the basis of the lessons learned as a result of calling and ordering members of the reserve components to active duty during fiscal years 2002 and 2003, an assessment of the process for calling and ordering such members to active duty, preparing such members for active duty, processing such members into the force upon entry onto active duty, and deploying such members, including an assessment of the adequacy of the alert and notification process from the perspectives of individual members, of reserve component units, and of employers of such members.

**SEC. 518. AUTHORITY FOR THE USE OF OPERATION AND MAINTENANCE FUNDS FOR PROMOTIONAL ACTIVITIES OF THE NATIONAL COMMITTEE FOR EMPLOYER SUPPORT OF THE GUARD AND RESERVE.**

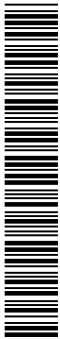
Section 2241 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(c) ACTIVITIES OF THE NATIONAL COMMITTEE FOR EMPLOYER SUPPORT OF THE GUARD AND RESERVE.—Amounts appropriated for operation and maintenance may, under regulations prescribed by the Secretary of Defense, be used by the Secretary for official reception, representation, and advertising activities and materials of the National Committee for Employer Support of the Guard and Reserve to further employer commitments to their employees who are members of a reserve component.”.

**Subtitle C—ROTC and Military Service Academies**

**SEC. 521. EXPANDED EDUCATIONAL ASSISTANCE AUTHORITY FOR CADETS AND MIDSHIPMEN RECEIVING ROTC SCHOLARSHIPS.**

(a) FINANCIAL ASSISTANCE PROGRAM FOR SERVICE ON ACTIVE DUTY.—Section 2107(c) of title 10, United States



1 Code, is amended by adding at the end the following new para-  
2 graphs:

3 “(3) In the case of a cadet or midshipman eligible to re-  
4 ceive financial assistance under paragraph (1) or (2), the Sec-  
5 retary of the military department concerned may, in lieu of all  
6 or part of the financial assistance described in paragraph (1),  
7 provide financial assistance in the form of room and board ex-  
8 penses for the cadet or midshipman and other expenses re-  
9 quired by the educational institution.

10 “(4) The total amount of financial assistance, including  
11 the payment of room and board and other educational ex-  
12 penses, provided to a cadet or midshipman in an academic year  
13 under this subsection may not exceed an amount equal to the  
14 amount that could be provided as financial assistance for such  
15 cadet or midshipman under paragraph (1) or (2), or another  
16 amount determined by the Secretary concerned, without regard  
17 to whether room and board and other educational expenses for  
18 such cadet or midshipman are paid under paragraph (3).”.

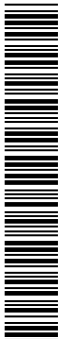
19 (b) FINANCIAL ASSISTANCE PROGRAM FOR SERVICE IN  
20 TROOP PROGRAM UNITS.—Section 2107a(c) of such title is  
21 amended—

22 (1) by inserting “(1)” after “(c)”; and

23 (2) by adding at the end the following new para-  
24 graphs:

25 “(2) In the case of a cadet eligible to receive financial as-  
26 sistance under paragraph (1), the Secretary of the military de-  
27 partment concerned may, in lieu of all or part of the financial  
28 assistance described in paragraph (1), provide financial assist-  
29 ance in the form of room and board expenses for such cadet  
30 and other expenses required by the educational institution.

31 “(3) The total amount of financial assistance, including  
32 the payment of room and board and any other educational ex-  
33 penses, provided to a cadet in an academic year under this sub-  
34 section may not exceed an amount equal to the amount that  
35 could be provided as financial assistance for such cadet under  
36 paragraph (1), or another amount determined by the Secretary  
37 of the Army, without regard to whether the room and board



1 and other educational expenses for such cadet are paid under  
2 paragraph (2).”.

3 (c) EFFECTIVE DATE.—The amendments made by this  
4 section shall apply to payment of expenses of cadets and mid-  
5 shipmen of the Senior Reserve Officers’ Training Corps pro-  
6 gram that are due after the date of the enactment of this Act.

7 **SEC. 522. INCREASE IN ALLOCATION OF SCHOLARSHIPS**  
8 **UNDER ARMY RESERVE ROTC SCHOLARSHIP**  
9 **PROGRAM TO STUDENTS AT MILITARY JUN-**  
10 **IOR COLLEGES.**

11 Section 2107a(h) of title 10, United States Code, is  
12 amended by striking “10” each place it appears and inserting  
13 “17”.

14 **SEC. 523. AUTHORITY FOR NONSCHOLARSHIP SENIOR**  
15 **ROTC SOPHOMORES TO VOLUNTARILY CON-**  
16 **TRACT FOR AND RECEIVE SUBSISTENCE AL-**  
17 **LOWANCE.**

18 (a) AUTHORITY FOR ALLOWANCE.—Section 209 of title  
19 37, United States Code, is amended—

20 (1) by redesignating subsections (c) and (d) as sub-  
21 sections (d) and (e), respectively; and

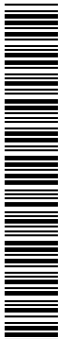
22 (2) by inserting after subsection (b) the following new  
23 subsection (c):

24 “(c) NONSCHOLARSHIP SENIOR ROTC MEMBERS NOT IN  
25 ADVANCED TRAINING.—A member of the Selected Reserve Of-  
26 ficers’ Training Corps who has entered into an agreement  
27 under section 2103a of title 10 is entitled to a monthly subsist-  
28 ence allowance at a rate prescribed under subsection (a). That  
29 allowance may be paid to the member by reason of such agree-  
30 ment for a maximum of 20 months.”.

31 (b) AUTHORITY TO ACCEPT ENROLLMENT.—(1) Chapter  
32 103 of title 10, United States Code, is amended by inserting  
33 after section 2103 the following new section:

34 **“§ 2103a. Students not eligible for advanced train-**  
35 **ing: commitment to military service**

36 “(a) AUTHORITY.—A member of the program who has  
37 completed successfully the first year of a four-year Senior Re-  
38 serve Officers’ Training Corps course and who is not eligible



1 for advanced training under section 2104 of this title and is  
2 not a cadet or midshipman appointed under section 2107 of  
3 this title may—

4 “(1) contract with the Secretary of the military de-  
5 partment concerned, or the Secretary’s designated rep-  
6 resentative, to serve for the period required by the pro-  
7 gram; and

8 “(2) agree in writing to accept an appointment, if of-  
9 fered, as a commissioned officer in the Army, Navy, Air  
10 Force, or Marine Corps, as the case may be, and to serve  
11 in the armed forces for the period prescribed by the Sec-  
12 retary.

13 “(b) ELIGIBILITY REQUIREMENTS.—A member of the pro-  
14 gram may enter into a contract and agreement under this sec-  
15 tion (and receive a subsistence allowance under section 209(c)  
16 of title 37) only if the person—

17 “(1) is a citizen of the United States;

18 “(2) enlists in an armed force under the jurisdiction  
19 of the Secretary of the military department concerned for  
20 the period prescribed by the Secretary; and

21 “(3) executes a certificate of loyalty in such form as  
22 the Secretary of Defense prescribes or take a loyalty oath  
23 as prescribed by the Secretary.

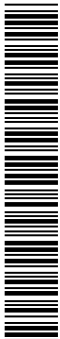
24 “(c) PARENTAL CONSENT FOR MINORS.—A member of  
25 the program who is a minor may enter into a contract under  
26 subsection (a)(1) only with the consent of the member’s parent  
27 or guardian.

28 “(d) TERMINATION OF AUTHORITY.—No contract may be  
29 entered into under subsection (a)(1) after December 31,  
30 2006.”.

31 (2) The table of sections at the beginning of such chapter  
32 is amended by inserting after the item relating to section 2103  
33 the following new item:

“2103a. Students not eligible for advanced training: commitment to military  
service.”.

34 (e) EFFECTIVE DATE.—The amendments made by sub-  
35 sections (a) and (b) shall take effect on January 1, 2004.



**SEC. 524. APPOINTMENTS TO MILITARY SERVICE ACADEMIES FROM NOMINATIONS MADE BY DELEGATES FROM GUAM, VIRGIN ISLANDS, AND AMERICAN SAMOA.**

(a) UNITED STATES MILITARY ACADEMY.—Section 4342(a) of title 10, United States Code, is amended—

(1) in paragraphs (6) and (8), by striking “Two” and inserting “Three”; and

(2) in paragraph (9), by striking “One” and inserting “Two”.

(b) UNITED STATES NAVAL ACADEMY.—Section 6954(a) of such title is amended—

(1) in paragraphs (6) and (8), by striking “Two” and inserting “Three”; and

(2) in paragraph (9), by striking “One” and inserting “Two”.

(c) UNITED STATES AIR FORCE ACADEMY.—Section 9342(a) of such title is amended—

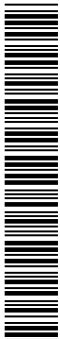
(1) in paragraphs (6) and (8), by striking “Two” and inserting “Three”; and

(2) in paragraph (9), by striking “One” and inserting “Two”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the nomination of candidates for appointment to the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy for classes entering those academies after the date of the enactment of this Act.

**SEC. 525. READMISSION TO SERVICE ACADEMIES OF CERTAIN FORMER CADETS AND MIDSHIPMEN.**

(a) INSPECTOR GENERAL REPORT AS BASIS FOR READMISSION.—(1) When a formal report by an Inspector General within the Department of Defense concerning the circumstances of the separation of a cadet or midshipman from one of the service academies contains a specific finding specified in paragraph (2), the Secretary of the military department concerned may use that report as the sole basis for readmission



1 of the former cadet or midshipman to the respective service  
2 academy.

3 (2) A finding specified in this paragraph is a finding that  
4 substantiates that a former service academy cadet or mid-  
5 shipman, while attending the service academy—

6 (A) received administrative or punitive action or non-  
7 judicial punishment as a result of reprisal;

8 (B) resigned in lieu of disciplinary, administrative, or  
9 other action that the formal report concludes constituted a  
10 threat of reprisal; or

11 (C) otherwise suffered an injustice that contributed to  
12 the resignation of the cadet or midshipman.

13 (b) READMISSION.—In the case of a formal report by an  
14 Inspector General described in subsection (a), the Secretary  
15 concerned shall offer the former cadet or midshipman an op-  
16 portunity for readmission to the service academy from which  
17 the former cadet or midshipman resigned, if the former cadet  
18 or midshipman is otherwise eligible for such readmission.

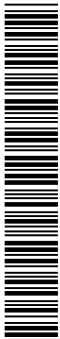
19 (c) APPLICATIONS FOR READMISSION.—A former cadet or  
20 midshipman described in a report referred to in subsection (a)  
21 may apply for readmission to the service academy on the basis  
22 of that report and shall not be required to submit the request  
23 for readmission through a board for the correction of military  
24 records.

25 (d) REGULATIONS TO MINIMIZE ADVERSE IMPACT UPON  
26 READMISSION.—The Secretary of each military department  
27 shall prescribe regulations for the readmission of a former  
28 cadet or midshipman described in subsections (a), with the  
29 goal, to the maximum extent practicable, of readmitting the  
30 former cadet or midshipman at no loss of the academic or mili-  
31 tary status held by the former cadet at the time of resignation.

32 (e) CONSTRUCTION WITH OTHER REMEDIES.—This sec-  
33 tion does not preempt or supersede any other remedy that may  
34 be available to a former cadet or midshipman.

35 (f) SERVICE ACADEMIES.—In this section, the term “serv-  
36 ice academy” means the following:

37 (1) The United States Military Academy.



1 (2) The United States Naval Academy.

2 (3) The United States Air Force Academy.

3 **SEC. 526. DEFENSE TASK FORCE ON SEXUAL HARASS-**  
4 **MENT AND VIOLENCE AT THE MILITARY**  
5 **SERVICE ACADEMIES.**

6 (a) ESTABLISHMENT.—The Secretary of Defense shall es-  
7 tablish a Department of Defense task force to examine matters  
8 relating to sexual harassment and violence at the United States  
9 Military Academy and the United States Naval Academy.

10 (b) RECOMMENDATIONS.—Not later than 12 months after  
11 the date on which all members of the task force have been ap-  
12 pointed, the task force shall submit to the Secretary of Defense  
13 a report recommending ways by which the Department of De-  
14 fense and the Department of the Army and the Department of  
15 the Navy may more effectively address matters relating to sex-  
16 ual harassment and violence at the United States Military  
17 Academy and the United States Naval Academy, respectively.  
18 The report shall include an assessment of, and recommenda-  
19 tions (including any recommended changes in law) for meas-  
20 ures to improve, with respect to sexual harassment and violence  
21 at those academies, the following:

22 (1) Victims' safety programs.

23 (2) Offender accountability.

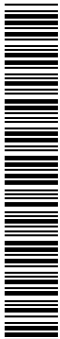
24 (3) Effective prevention of sexual harassment and vio-  
25 lence.

26 (4) Collaboration among military organizations with  
27 responsibility or jurisdiction with respect to sexual harass-  
28 ment and violence.

29 (5) Coordination between military and civilian commu-  
30 nities, including local support organizations, with respect to  
31 sexual harassment and violence.

32 (6) Coordination between military and civilian commu-  
33 nities, including civilian law enforcement relating to acts of  
34 sexual harassment and violence.

35 (7) Data collection and case management and track-  
36 ing.



1 (8) Curricula and training, including standard training  
2 programs for cadets at the United States Military Academy  
3 and midshipmen at the United States Naval Academy and  
4 for permanent personnel assigned to those academies.

5 (9) Responses to sexual harassment and violence at  
6 those academies, including standard guidelines.

7 (10) Other issues identified by the task force relating  
8 to sexual harassment and violence at those academies.

9 (c) METHODOLOGY.—The task force shall consider the  
10 findings and recommendations of previous reviews and inves-  
11 tigations of sexual harassment and violence conducted for those  
12 academies as one of the bases for its assessment.

13 (d) REPORT.—(1) The task force shall submit to the Sec-  
14 retary of Defense and the Secretaries of the Army and the  
15 Navy a report on the activities of the task force and on the ac-  
16 tivities of the United States Military Academy and the United  
17 States Naval Academy to respond to sexual harassment and vi-  
18 olence at those academies.

19 (2) The report shall include the following:

20 (A) Any barriers to implementation of improvements  
21 as a result of those efforts.

22 (B) Other areas of concern not previously addressed in  
23 prior reports.

24 (C) The findings and conclusions of the task force.

25 (D) Any recommendations for changes to policy and  
26 law as the task force considers appropriate, including  
27 whether cases of sexual assault at those academies should  
28 be included in the Department of Defense database known  
29 as the Defense Incident-Based Reporting System.

30 (3) Within 90 days after receipt of the report under para-  
31 graph (1) the Secretary of Defense shall submit the report, to-  
32 gether with the Secretary's evaluation of the report, to the  
33 Committees on Armed Services of the Senate and House of  
34 Representatives.

35 (e) REPORT ON AIR FORCE ACADEMY.—Simultaneously  
36 with the submission of the report under subsection (d)(3), the  
37 Secretary of Defense, in coordination with the Secretary of the





1 Air Force, shall submit to the committees specified in that sub-  
2 section the Secretary's assessment of the effectiveness of cor-  
3 rective actions being taken at the United States Air Force  
4 Academy as a result of various investigations conducted at that  
5 Academy into matters involving sexual assault and harassment.

6 (f) COMPOSITION.—(1) The task force shall consist of not  
7 more than 14 members, to be appointed by the Secretary of  
8 Defense. Members shall be appointed from each of the Army,  
9 Navy, Air Force, and Marine Corps, and shall include an equal  
10 number of personnel of the Department of Defense (military  
11 and civilian) and persons from outside the Department of De-  
12 fense. Members appointed from outside the Department of De-  
13 fense may be appointed from other Federal departments and  
14 agencies, from State and local agencies, or from the private  
15 sector.

16 (2) The Secretary shall ensure that the membership of the  
17 task force appointed from the Department of Defense includes  
18 at least one judge advocate.

19 (3) In appointing members to the task force, the Secretary  
20 may—

21 (A) consult with the Attorney General regarding a rep-  
22 resentative from the Office of Violence Against Women of  
23 the Department of Justice; and

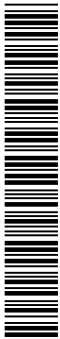
24 (B) consult with the Secretary of Health and Human  
25 Services regarding a representative from the Women's  
26 Health office of the Department of Health and Human  
27 Services.

28 (4) Each member of the task force appointed from outside  
29 the Department of Defense shall be an individual who has dem-  
30 onstrated expertise in the area of sexual harassment and vio-  
31 lence or shall be appointed from one of the following:

32 (A) A representative from the Office of Civil Rights of  
33 the Department of Education.

34 (B) A representative from the Centers for Disease  
35 Control and Prevention of the Department of Health and  
36 Human Services.

37 (C) A sexual assault policy and advocacy organization.



1 (D) A civilian law enforcement agency.

2 (E) A judicial policy organization.

3 (F) A national crime victim policy organization.

4 (5) The members of the task force shall be appointed not  
5 later than 120 days after the date of the enactment of this Act.

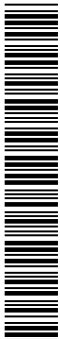
6 (g) CO-CHAIRS OF THE TASK FORCE.—There shall be two  
7 co-chairs of the task force. One of the co-chairs shall be des-  
8 ignated by the Secretary of the Defense at the time of appoint-  
9 ment from among the Department of Defense personnel on the  
10 task force. The other co-chair shall be selected from among the  
11 members appointed from outside the Department of Defense by  
12 those members.

13 (h) ADMINISTRATIVE SUPPORT.—(1) Each member of the  
14 task force who is a member of the Armed Forces or a civilian  
15 officer or employee of the United States shall serve without  
16 compensation (other than compensation to which entitled as a  
17 member of the Armed Forces or an officer or employee of the  
18 United States, as the case may be). Other members of the task  
19 force shall be appointed in accordance with, and subject to, sec-  
20 tion 3161 of title 5, United States Code.

21 (2) The Deputy Under Secretary of Defense for Personnel  
22 and Readiness, under the direction of the Under Secretary of  
23 Defense for Personnel and Readiness, shall provide oversight of  
24 the task force. The Washington Headquarters Services of the  
25 Department of Defense shall provide the task force with per-  
26 sonnel, facilities, and other administrative support as necessary  
27 for the performance of the task force's duties.

28 (3) The Deputy Under Secretary shall coordinate with the  
29 Secretary of the Army to provide visits of the task force to the  
30 United States Military Academy and with the Secretary of the  
31 Navy to provide visits of the task force to the United States  
32 Naval Academy.

33 (i) TERMINATION.—The task force shall terminate 90 days  
34 after the date on which the report of the task force is sub-  
35 mitted to the Committees on Armed Services of the Senate and  
36 House of Representatives pursuant to subsection (d)(3).



**SEC. 527. ACTIONS TO ADDRESS SEXUAL HARASSMENT  
AND VIOLENCE AT THE SERVICE ACADEMIES.**

(a) POLICY ON SEXUAL HARASSMENT AND VIOLENCE.—

(1) Under guidance prescribed by the Secretary of Defense—

(A) the Secretary of the Army shall direct the Superintendent of the United States Military Academy to prescribe a policy on sexual harassment and violence applicable to the personnel of the United States Military Academy;

(B) the Secretary of the Navy shall direct the Superintendent of the United States Naval Academy to prescribe a policy on sexual harassment and violence applicable to the personnel of the United States Naval Academy; and

(C) the Secretary of the Air Force shall direct the Superintendent of the United States Air Force Academy to prescribe a policy on sexual harassment and violence applicable to the personnel of the United States Air Force Academy.

(2) The policy on sexual harassment and violence prescribed for an academy under paragraph (1) shall specify the following:

(A) Programs to promote awareness of the incidence of rape, acquaintance rape, and other sexual offenses of a criminal nature that involve academy personnel.

(B) Procedures that a cadet or midshipman should follow in the case of an occurrence of sexual harassment or violence, including—

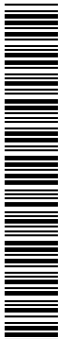
(i) a specification of the person or persons to whom the alleged offense should be reported;

(ii) a specification of any other person whom the victim should contact; and

(iii) procedures on the preservation of evidence potentially necessary for proof of criminal sexual assault.

(C) Procedures for disciplinary action in cases of alleged criminal sexual assault involving academy personnel.

(D) Any other sanction authorized to be imposed in a substantiated case of harassment or violence involving



1 academy personnel in rape, acquaintance rape, or any other  
2 criminal sexual offense, whether forcible or nonforcible.

3 (E) Required training on the policy for all academy  
4 personnel, including the specific training required for per-  
5 sonnel who process allegations of sexual harassment or vio-  
6 lence involving academy personnel.

7 (3) In prescribing the policy on sexual harassment and vio-  
8 lence for an academy under paragraph (1), the Superintendent  
9 of that academy shall take into consideration—

10 (A) the findings, conclusions, and recommendations of  
11 the panel established pursuant to title V of the Emergency  
12 Wartime Supplemental Appropriations Act, 2003 (Public  
13 Law 108–11; 117 Stat. 609) to review sexual misconduct  
14 allegations at the United States Air Force Academy; and

15 (B) the findings, conclusions, and recommendations of  
16 other previous reviews and investigations of sexual harass-  
17 ment and violence conducted with respect to one or more  
18 of the academies covered by paragraph (1).

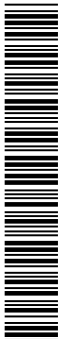
19 (4) The policy for each such academy required by para-  
20 graph (1) shall be prescribed not later than June 1, 2004.

21 (b) ANNUAL ASSESSMENT.—(1) The Secretary of Defense,  
22 through the Secretaries of the military departments, shall di-  
23 rect each Superintendent to conduct at the academy under the  
24 jurisdiction of that Superintendent an assessment during each  
25 academy program year to determine the effectiveness of the  
26 academy's policies, training, and procedures on sexual harass-  
27 ment and violence to prevent criminal sexual harassment and  
28 violence involving academy personnel.

29 (2) For the assessment for each of the 2004, 2005, 2006,  
30 2007, and 2008 academy program years, the Superintendent  
31 shall conduct a survey of all academy personnel—

32 (A) to measure—

33 (i) the incidence, during that program year, of sex-  
34 ual harassment and violence events, on or off the acad-  
35 emy reservation, that have been reported to officials of  
36 the academy; and



1 (ii) the incidence, in that program year, of sexual  
2 harassment and violence events, on or off the academy  
3 reservation, that have not been reported to officials of  
4 the academy; and

5 (B) to assess the perceptions of academy personnel  
6 on—

7 (i) the policies, training, and procedures on sexual  
8 harassment and violence involving academy personnel;

9 (ii) the enforcement of such policies;

10 (iii) the incidence of sexual harassment and vio-  
11 lence involving academy personnel in such program  
12 year; and

13 (iv) any other issues relating to sexual harassment  
14 and violence involving academy personnel.

15 (c) ANNUAL REPORT.—(1) The Secretary of the Army,  
16 the Secretary of the Navy, and the Secretary of the Air Force  
17 shall direct the Superintendent of the United States Military  
18 Academy, the Superintendent of the United States Naval Acad-  
19 emy, and the Superintendent of the United States Air Force  
20 Academy, respectively, to submit to the Secretary a report on  
21 sexual harassment and violence involving academy personnel for  
22 each of the 2004, 2005, 2006, 2007, and 2008 academy pro-  
23 gram years.

24 (2) The annual report for an academy under paragraph  
25 (1) shall contain, for the academy program year covered by the  
26 report, the following matters:

27 (A) The number of sexual assaults, rapes, and other  
28 sexual offenses involving academy personnel that have been  
29 reported to academy officials during the program year, and  
30 the number of the reported cases that have been substan-  
31 tiated.

32 (B) The policies, procedures, and processes imple-  
33 mented by the Secretary of the military department con-  
34 cerned and the leadership of the academy in response to  
35 sexual harassment and violence involving academy per-  
36 sonnel during the program year.



1 (C) In the report for the 2004 academy program year,  
2 a discussion of the survey conducted under subsection (b),  
3 together with an analysis of the results of the survey and  
4 a discussion of any initiatives undertaken on the basis of  
5 such results and analysis.

6 (D) In the report for each of the subsequent academy  
7 program years, the results of the annual survey conducted  
8 in such program year under subsection (b).

9 (E) A plan for the actions that are to be taken in the  
10 following academy program year regarding prevention of  
11 and response to sexual harassment and violence involving  
12 academy personnel.

13 (3) The Secretary of a military department shall transmit  
14 the annual report on an academy under this subsection, to-  
15 gether with the Secretary's comments on the report, to the Sec-  
16 retary of Defense and the Board of Visitors of the academy.

17 (4) The Secretary of Defense shall transmit the annual re-  
18 port on each academy under this subsection, together with the  
19 Secretary's comments on the report to, the Committees on  
20 Armed Services of the Senate and the House of Representa-  
21 tives.

22 (5) The report for the 2004 academy program year for an  
23 academy shall be submitted to the Secretary of the military de-  
24 partment concerned not later than one year after the date of  
25 the enactment of this Act.

26 (6) In this subsection, the term "academy program year"  
27 with respect to a year, means the academy program year that  
28 ends in that year.

29 **SEC. 528. STUDY AND REPORT RELATED TO PERMA-**  
30 **NENT PROFESSORS AT THE UNITED STATES**  
31 **AIR FORCE ACADEMY.**

32 (a) SECRETARY OF AIR FORCE RECOMMENDATIONS.—Not  
33 later than six months after the date of the enactment of the  
34 Act, the Secretary of the Air Force shall submit to the Sec-  
35 retary of Defense a report containing recommended changes in  
36 policy and law pertaining to the selection, tenure, utilization,



1 responsibilities, and qualifications of the permanent professors  
2 at the Air Force Academy.

3 (b) SECRETARY OF DEFENSE RECOMMENDATIONS.—Not  
4 later than one month after receiving the report of the Secretary  
5 of the Air Force under subsection (a), the Secretary of Defense  
6 shall submit to the Committees on Armed Services of the Sen-  
7 ate and House of Representatives the report received from the  
8 Secretary of the Air Force, together with the recommendations  
9 of the Secretary of Defense for action and proposals for legisla-  
10 tion.

11 (c) MATTERS TO BE CONSIDERED BY SECRETARY OF AIR  
12 FORCE.—The Secretary of the Air Force in preparing the re-  
13 port required by subsection (a), shall, at a minimum, do the  
14 following:

15 (1) Conduct a comprehensive review and assessment of  
16 the existing faculty system at the Air Force Academy, in-  
17 cluding both civilian and military permanent professorships.

18 (2) Take into account the findings, conclusions, and  
19 recommendation regarding faculty and permanent profes-  
20 sorships at the Air Force Academy of—

21 (A) the report of the Panel to Review Sexual Mis-  
22 conduct Allegations at the U. S. Air Force Academy  
23 (referred to as the “Fowler Panel”), dated September  
24 22, 2003;

25 (B) the report released on June 19, 2003, of the  
26 special working group appointed by the Secretary of  
27 the Air Force known as the Working Group Concerning  
28 the Deterrence of and Response to Incidents of Sexual  
29 Assault at the U.S. Air Force Academy, which was led  
30 by the General Counsel of the Department of the Air  
31 Force; and

32 (C) the Agenda for Change of the Air Force Acad-  
33 emy dated March 26, 2003.

34 (3) Solicit information regarding the faculty and per-  
35 manent professorship systems at the United States Naval  
36 Academy and the United States Military Academy and con-  
37 sider that information as part of the required assessment.



1 (4) Consult with experts on higher education outside  
2 the Department of Defense.

3 **SEC. 529. DEAN OF THE FACULTY OF THE UNITED**  
4 **STATES AIR FORCE ACADEMY.**

5 (a) AUTHORITY TO APPOINT DEAN FROM PERSONS  
6 OTHER THAN AIR FORCE ACADEMY FACULTY HEADS OF DE-  
7 PARTMENTS.—Subsection (a) of section 9335 of title 10,  
8 United States Code, is amended to read as follows:

9 “(a) The Dean of the Faculty is responsible to the Super-  
10 intendent for developing and sustaining the curriculum and  
11 overseeing the faculty of the Academy. The qualifications, selec-  
12 tion procedures, training, pay grade, and retention of the Dean  
13 shall be prescribed by the Secretary of the Air Force. If a per-  
14 son appointed as the Dean is not an officer on active duty, the  
15 person shall be appointed as a member of the Senior Executive  
16 Service.”.

17 (b) CONFORMING AMENDMENTS.—Subsection (b) of such  
18 section is amended—

19 (1) in the first sentence—

20 (A) by striking “of the Air Force” and inserting  
21 “on active duty”; and

22 (B) by inserting “(or the equivalent)” after “brig-  
23 adier general” both places it appears; and

24 (2) in the last sentence—

25 (A) by inserting “applicable” before “limitation”;  
26 and

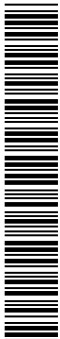
27 (C) by striking “of the Air Force”.

28 (c) STATUTORY STATUS AS PERMANENT PROFESSOR.—

29 (1) Section 9331(b)(2) of such title is amended by striking  
30 “dean of the Faculty, who is a permanent professor” and in-  
31 serting “Dean of the Faculty”.

32 (2) Section 9336(a) of such title is amended by striking  
33 “, other than the Dean of the Faculty,”.

34 (d) APPLICABILITY.—The amendments made by this sec-  
35 tion shall apply with respect to any Dean of the Faculty of the  
36 United States Air Force Academy selected on or after the date  
37 of the enactment of this Act.





**Subtitle D—Other Military Education  
and Training Matters**

**SEC. 531. AUTHORITY FOR THE MARINE CORPS UNIVERSITY TO AWARD THE DEGREE OF MASTER OF OPERATIONAL STUDIES.**

(a) AUTHORITY.—Section 7102 of title 10, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

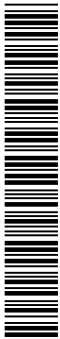
“(c) COMMAND AND STAFF COLLEGE OF THE MARINE CORP UNIVERSITY.—Upon the recommendation of the Director and faculty of the Command and Staff College of the Marine Corps University, the President of the Marine Corps University may confer the degree of master of operational studies upon graduates of the Command and Staff College’s School of Advanced Warfighting who fulfill the requirements for that degree.”.

(b) EFFECTIVE DATE.—The authority to confer the degree of master of operational studies under section 7102(c) of title 10, United States Code (as added by subsection (a)) may not be exercised until the Secretary of Education determines, and certifies to the President of the Marine Corps University, that the requirements established by the Command and General Staff College of the Marine Corps University for that degree are in accordance with generally applicable requirements for a degree of master of arts.

**SEC. 532. AUTHORIZATION FOR NAVAL POSTGRADUATE SCHOOL TO PROVIDE INSTRUCTION TO ENLISTED MEMBERS PARTICIPATING IN CERTAIN PROGRAMS.**

(a) EXPANDED ELIGIBILITY FOR ENLISTED PERSONNEL.—Subsection (a)(2) of section 7045 of title 10, United States Code, is amended to read as follows:

“(2)(A) The Secretary may permit an enlisted member of the armed forces to receive instruction at the Naval Post-



1 graduate School through attendance at an executive level seminar.  
2

3 “(B) The Secretary may permit an eligible enlisted member  
4 of the armed forces to receive instruction at the Postgraduate  
5 School in connection with pursuit of a program of education  
6 in information assurance as a participant in the Information  
7 Security Scholarship program under chapter 112 of this title. To be  
8 eligible for instruction under this subparagraph, the enlisted  
9 member must have been awarded a baccalaureate degree by an  
10 institution of higher education.

11 “(C) In addition to instruction authorized under subparagraphs  
12 (A) and (B), the Secretary may, on a space-available basis,  
13 permit an enlisted member of the armed forces who is assigned  
14 permanently to the staff of the Postgraduate School or to a nearby  
15 command to receive instruction at the Postgraduate School.”  
16

17 (b) REIMBURSEMENT.—Subsection (b) of such section is  
18 amended—

19 (1) by striking “The Department” and inserting “(1) Except  
20 as provided under paragraph (3), the Department”;

21 (2) by striking “officers” in the first sentence and inserting  
22 “members”;

23 (3) by designating the second sentence as paragraph (2) and in  
24 that sentence—

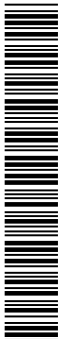
25 (A) by inserting “under subsection (a)(2)(C)” after  
26 “permitted”;

27 (B) by inserting “on a space-available basis” after  
28 “instruction at the Postgraduate School”; and

29 (C) by striking “(taking into consideration the admission of  
30 enlisted members on a space-available basis)”;

31 and  
32 (4) by adding at the end the following new paragraph:

33 “(3) The requirements for payment of costs and fees under  
34 paragraph (1) shall be subject to such exceptions as the Secretary  
35 of Defense may prescribe for members of the armed forces who  
36 receive instruction at the Postgraduate School in connection  
37 with pursuit of a degree or certification as partici-



1 pants in the Information Security Scholarship program under  
2 chapter 112 of this title.”.

3 **SEC. 533. COST REIMBURSEMENT REQUIREMENTS FOR**  
4 **PERSONNEL RECEIVING INSTRUCTION AT**  
5 **THE AIR FORCE INSTITUTE OF TECHNOLOGY**

6 (a) REIMBURSEMENT FROM OTHER SERVICES.—Section  
7 9314 of title 10, United States Code, is amended by adding at  
8 the end the following new subsection:

9 “(c) REIMBURSEMENT.—(1) The Department of the  
10 Army, the Department of the Navy, and the Department of  
11 Homeland Security shall bear the cost of the instruction at the  
12 Air Force Institute of Technology that is received by members  
13 of the armed forces detailed for that instruction by the Secre-  
14 taries of the Army, Navy, and Homeland Security, respectively.

15 “(2) Members of the Army, Navy, Marine Corps, and  
16 Coast Guard may only be detailed for instruction at the Insti-  
17 tute on a space-available basis.

18 “(3) In the case of an enlisted member of the Army, Navy,  
19 Marine Corps, and Coast Guard permitted to receive instruc-  
20 tion at the Institute, the Secretary of the Air Force shall  
21 charge that member only for such costs and fees as the Sec-  
22 retary considers appropriate (taking into consideration the ad-  
23 mission of enlisted members on a space-available basis).”.

24 (b) STYLISTIC AMENDMENTS.—(1) Subsection (a) of such  
25 section is amended by inserting “AUTHORITY TO CONFER DE-  
26 GREES.—” after “(a)”.

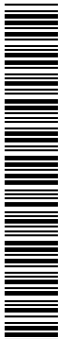
27 (2) Subsection (b) of such section is amended by inserting  
28 “CIVILIAN FACULTY.—” after “(b)”.

29 (c) CLARIFYING AMENDMENT.—Subsection (a) of such  
30 section is further amended—

31 (1) by striking “When the” and all that follows  
32 through “the Commander” and inserting “(1) The Com-  
33 mander”;

34 (2) by striking “that Institute” and inserting “the  
35 United States Air Force Institute of Technology”; and

36 (3) by adding at the end the following new paragraph:



1 “(2) The authority under this subsection to confer a de-  
2 gree is effective only during a period when the United States  
3 Air Force Institute of Technology is accredited with respect to  
4 the award of that degree by a nationally recognized accredita-  
5 tion association or authority.”.

6 **SEC. 534. INCLUSION OF ACCRUED INTEREST IN**  
7 **AMOUNTS THAT MAY BE REPAID UNDER SE-**  
8 **LECTED RESERVE CRITICAL SPECIALTIES**  
9 **EDUCATION LOAN REPAYMENT PROGRAM.**

10 Section 16301 of title 10, United States Code, is  
11 amended—

12 (1) in subsection (b), by inserting before the period at  
13 the end the following: “, plus the amount of any interest  
14 that may accrue during the current year”; and

15 (2) in subsection (c), by adding at the end the fol-  
16 lowing new sentence: “For the purposes of this section, any  
17 interest that has accrued on the loan for periods before the  
18 current year shall be considered as within the total loan  
19 amount that shall be repaid.”.

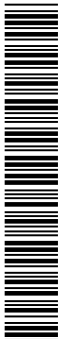
20 **SEC. 535. FUNDING OF EDUCATION ASSISTANCE ENLIST-**  
21 **MENT INCENTIVES TO FACILITATE NA-**  
22 **TIONAL SERVICE THROUGH DEPARTMENT**  
23 **OF DEFENSE EDUCATION BENEFITS FUND.**

24 (a) IN GENERAL.—Subsection (j) of section 510 of title  
25 10, United States Code, is amended to read as follows:

26 “(j) FUNDING.—(1) Amounts for the payment of incen-  
27 tives under paragraphs (1) and (2) of subsection (e) shall be  
28 derived from amounts available to the Secretary of the military  
29 department concerned for the payment of pay, allowances and  
30 other expenses of the members of the armed force concerned.

31 “(2) Amounts for the payment of incentives under para-  
32 graphs (3) and (4) of subsection (e) shall be derived from the  
33 Department of Defense Education Benefits Fund under section  
34 2006 of this title.”.

35 (b) CONFORMING AMENDMENTS.—Section 2006(b) of such  
36 title is amended—



5–33

(1) in paragraph (1), by inserting “paragraphs (3) and (4) of section 510(e) and” after “Department of Defense benefits under”; and

(2) in paragraph (2), by adding at the end the following new subparagraph:

“(E) The present value of future benefits payable from the Fund for educational assistance under paragraphs (3) and (4) of section 510(e) of this title to persons who during such period become entitled to such assistance.”.

**SEC. 536. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.**

(a) CONTINUATION OF DEPARTMENT OF DEFENSE PROGRAM FOR FISCAL YEAR 2004.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, \$30,000,000 shall be available only for the purpose of providing educational agencies assistance to local educational agencies.

(b) NOTIFICATION.—Not later than June 30, 2004, the Secretary of Defense shall notify each local educational agency that is eligible for educational agencies assistance for fiscal year 2004 of—

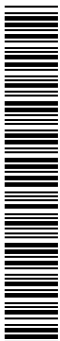
(1) that agency’s eligibility for the assistance; and

(2) the amount of the assistance for which that agency is eligible.

(c) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse funds made available under subsection (a) not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (b).

(d) DEFINITIONS.—In this section:

(1) The term “educational agencies assistance” means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).



1           (2) The term “local educational agency” has the  
2           meaning given that term in section 8013(9) of the Elemen-  
3           tary and Secondary Education Act of 1965 (20 U.S.C.  
4           7713(9)).

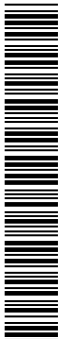
5       **SEC. 537. IMPACT AID ELIGIBILITY FOR HEAVILY IM-**  
6       **PACTED LOCAL EDUCATIONAL AGENCIES**  
7       **AFFECTED BY PRIVATIZATION OF MILITARY**  
8       **HOUSING.**

9           (a) TRANSITION.—Section 8003(b)(2)(H) of the Elemen-  
10          tary and Secondary Education Act of 1965 (20 U.S.C.  
11          7703(b)(2)(H)) is amended by striking clauses (i) and (ii) and  
12          inserting the following:

13               “(i) ELIGIBILITY.—For any fiscal year, a  
14               heavily impacted local educational agency that re-  
15               ceived a basic support payment under this para-  
16               graph for the prior fiscal year, but is ineligible for  
17               such payment for the current fiscal year under sub-  
18               paragraph (B), (C), (D), or (E), as the case may  
19               be, by reason of the conversion of military housing  
20               units to private housing described in clause (iii),  
21               shall be deemed to meet the eligibility requirements  
22               under subparagraph (B) or (C), as the case may  
23               be, for the period during which the housing units  
24               are undergoing such conversion.

25               “(ii) AMOUNT OF PAYMENT.—The amount of  
26               a payment to a heavily impacted local educational  
27               agency for a fiscal year by reason of the application  
28               of clause (i), and calculated in accordance with sub-  
29               paragraph (D) or (E), as the case may be, shall be  
30               based on the number of children in average daily  
31               attendance in the schools of such agency for the  
32               fiscal year and under the same provisions of sub-  
33               paragraph (D) or (E) under which the agency was  
34               paid during the prior fiscal year.”.

35           (b) EFFECTIVE DATE.—The amendment made by sub-  
36          section (a) shall take effect beginning with basic support pay-  
37          ments under section 8003(b)(2) of the Elementary and Sec-



ondary Education Act of 1965 (20 U.S.C. 7703(b)(2)) for fiscal year 2003.

## **Subtitle D—Administrative Matters**

### **SEC. 541. HIGH-TEMPO PERSONNEL MANAGEMENT AND ALLOWANCE.**

(a) DEPLOYMENT MANAGEMENT.—Subsection (a) of section 991 of title 10, United States Code, is amended to read as follows:

“(a) MANAGEMENT RESPONSIBILITIES.—(1) The deployment (or potential deployment) of a member of the armed forces shall be managed to ensure that the member is not deployed, or continued in a deployment, on any day on which the total number of days on which the member has been deployed—

“(A) out of the preceding 365 days would exceed the one-year high-deployment threshold; or

“(B) out of the preceding 730 days would exceed the two-year high-deployment threshold.

“(2) In this subsection:

“(A) The term ‘one-year high-deployment threshold’ means—

“(i) 220 days; or

“(ii) a lower number of days prescribed by the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness.

“(B) The term ‘two-year high-deployment threshold’ means—

“(i) 400 days; or

“(ii) a lower number of days prescribed by the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness.

“(3) A member may be deployed, or continued in a deployment, without regard to paragraph (1) if the deployment, or continued deployment, is approved by the Secretary of Defense. The authority of the Secretary under the preceding sentence may only be delegated to—



5–36

“(A) a civilian officer of the Department of Defense appointed by the President, by and with the advise and consent of the Senate, or a member of the Senior Executive Service; or

“(B) a general or flag officer in that member’s chain of command (including an officer in the grade of colonel, or in the case of the Navy, captain, serving in a general or flag officer position who has been selected for promotion to the grade of brigadier general or rear admiral (lower half) in a report of a selection board convened under section 611(a) or 14101(a) of this title that has been approved by the President).”.

(b) CHANGES FROM PER DIEM TO HIGH-DEPLOYMENT ALLOWANCE.—(1) Subsection (a) of section 436 of title 37, United States Code, is amended to read as follows:

“(a) MONTHLY ALLOWANCE.—The Secretary of the military department concerned shall pay a high-deployment allowance to a member of the armed forces under the Secretary’s jurisdiction for each month during which the member—

“(1) is deployed; and

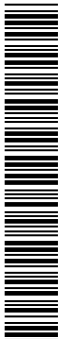
“(2) at any time during that month—

“(A) has been deployed for 191 or more consecutive days (or a lower number of consecutive days prescribed by the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness);

“(B) has been deployed, out of the preceding 730 days, for a total of 401 or more days (or a lower number of days prescribed by the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness); or

“(C) in the case of a member of a reserve component, is on active duty—

“(i) under a call or order to active duty for a period of more than 30 days that is the second (or later) such call or order to active duty (whether





5–37

1 voluntary or involuntary) for that member in sup-  
2 port of the same contingency operation; or

3 “(ii) for a period of more than 30 days under  
4 a provision of law referred to in section  
5 101(a)(13)(B) of title 10, if such period begins  
6 within one year after the date on which the mem-  
7 ber was released from previous service on active  
8 duty for a period of more than 30 days under a call  
9 or order issued under such a provision of law.”.

10 (2) Subsection (c) of such section is amended to read as  
11 follows:

12 “(c) RATE.—The monthly rate of the allowance payable to  
13 a member under this section shall be determined by the Sec-  
14 retary concerned, not to exceed \$1,000 per month.”.

15 (3) Such section is further amended by adding at the end  
16 the following new subsections:

17 “(g) AUTHORITY TO EXCLUDE CERTAIN DUTY ASSIGN-  
18 MENTS.—The Secretary concerned may exclude members serv-  
19 ing in specified duty assignments from eligibility for the high-  
20 deployment allowance while serving in those assignments. Any  
21 such specification of duty assignments may only be made with  
22 the approval of the Secretary of Defense, acting through the  
23 Under Secretary of Defense for Personnel and Readiness. Spec-  
24 ification of a particular duty assignment for purposes of this  
25 subsection may not be implemented so as to apply to the mem-  
26 ber serving in that position at the time of such specification.

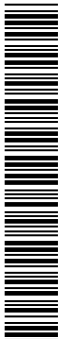
27 “(h) PAYMENT FROM OPERATION AND MAINTENANCE  
28 FUNDS.—The monthly allowance payable to a member under  
29 this section shall be paid from appropriations available for op-  
30 eration and maintenance for the armed force in which the  
31 member serves.”.

32 (4) Such section is further amended—

33 (A) in subsection (d), by striking “per diem”;

34 (B) in subsection (e), by striking “per diem” and in-  
35 serting “allowance”; and

36 (C) in subsection (f)—



1 (i) by striking “per diem” and inserting “allow-  
2 ance”; and

3 (ii) by striking “day on which” and inserting  
4 “month during which”.

5 (5)(A) The heading of such section is amended to read as  
6 follows:

7 **“§ 436. High-deployment allowance: lengthy or nu-  
8 merous deployments; frequent mobiliza-  
9 tions”.**

10 (B) The item relating to such section in the table of sec-  
11 tions at the beginning of chapter 7 of such title is amended to  
12 read as follows:

“436. High-deployment allowance: lengthy or numerous deployments; fre-  
quent mobilizations.”.

13 (c) CHANGES TO REPORTING REQUIREMENT.—Section  
14 487(b)(5) of title 10, United States Code, is amended to read  
15 as follows:

16 “(5) For each of the armed forces, the description shall  
17 indicate, for the period covered by the report—

18 “(A) the number of members who received the high-  
19 deployment allowance under section 436 of title 37;

20 “(B) the number of members who received each rate  
21 of allowance paid;

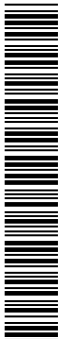
22 “(C) the number of members who received the allow-  
23 ance for one month, for two months, for three months, for  
24 four months, for five months, for six months, and for more  
25 than six months; and

26 “(D) the total amount spent on the allowance.”.

27 **SEC. 542. ENHANCED RETENTION OF ACCUMULATED**  
28 **LEAVE FOR HIGH-DEPLOYMENT MEMBERS.**

29 (a) ENHANCED AUTHORITY TO RETAIN ACCUMULATED  
30 LEAVE.—Paragraph (1) of section 701(f) of title 10, United  
31 States Code, is amended to read as follows:

32 “(f)(1)(A) The Secretary concerned, under uniform regula-  
33 tions to be prescribed by the Secretary of Defense, may author-  
34 ize a member described in subparagraph (B) who, except for  
35 this paragraph, would lose any accumulated leave in excess of



1 60 days at the end of the fiscal year, to retain an accumulated  
2 total of 120 days leave.

3 “(B) This subsection applies to a member who serves on  
4 active duty for a continuous period of at least 120 days—

5 “(i) in an area in which the member is entitled to spe-  
6 cial pay under section 310(a) of title 37; or

7 “(ii) while assigned to a deployable ship or mobile unit  
8 or to other duty comparable to that specified in clause (i)  
9 that is designated for the purpose of this subsection.

10 “(C) Except as provided in paragraph (2), leave in excess  
11 of 60 days accumulated under this paragraph is lost unless it  
12 is used by the member before the end of the third fiscal year  
13 after the fiscal year in which the continuous period of service  
14 referred to in subparagraph (B) terminated.”.

15 (b) EFFECTIVE DATE.—The amendment made by sub-  
16 section (a) shall take effect on October 1, 2003, or the date  
17 of the enactment of this Act, whichever is later.

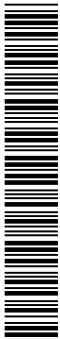
18 **SEC. 543. STANDARDIZATION OF STATUTORY AUTHORI-**  
19 **TIES FOR EXEMPTIONS FROM REQUIRE-**  
20 **MENT FOR ACCESS TO SECONDARY**  
21 **SCHOOLS BY MILITARY RECRUITERS.**

22 (a) CONSISTENCY WITH ELEMENTARY AND SECONDARY  
23 EDUCATION ACT OF 1965.—Paragraph (5) of section 503(c) of  
24 title 10, United States Code, is amended by striking “apply  
25 to—” and all that follows through “school which” and inserting  
26 “apply to a private secondary school that”.

27 (b) CORRECTION OF CROSS REFERENCE.—Paragraph  
28 (6)(A)(i) of such section is amended by striking “14101” and  
29 “8801” and inserting “9101” and “7801”, respectively.

30 **SEC. 544. PROCEDURES FOR CONSIDERATION OF APPLI-**  
31 **CATIONS FOR AWARD OF THE PURPLE**  
32 **HEART MEDAL TO VETERANS HELD AS PRIS-**  
33 **ONERS OF WAR BEFORE APRIL 25, 1962.**

34 Section 521 of the National Defense Authorization Act for  
35 Fiscal Year 1996 (Public Law 104–106; 110 Stat. 309; 10  
36 U.S.C. 1129 note) is amended by adding at the end the fol-  
37 lowing new subsection:



1 “(d) PROCEDURES FOR AWARD.—In determining whether  
2 a former prisoner of war who submits an application for the  
3 award of the Purple Heart under subsection (a) is eligible for  
4 that award, the Secretary concerned shall apply the following  
5 procedures:

6 “(1) Failure of the applicant to provide any docu-  
7 mentation as required by the Secretary shall not in itself  
8 disqualify the application from being considered.

9 “(2) In evaluating the application, the Secretary shall  
10 consider (A) historical information as to the prison camp  
11 or other circumstances in which the applicant was held cap-  
12 tive, and (B) the length of time that the applicant was held  
13 captive.

14 “(3) To the extent that information is readily avail-  
15 able, the Secretary shall assist the applicant in obtaining  
16 information or identifying the sources of information re-  
17 ferred to in paragraph (2).

18 “(4) The Secretary shall review a completed applica-  
19 tion under this section based upon the totality of the infor-  
20 mation presented, taking into account the length of time  
21 between the period during which the applicant was held as  
22 a prisoner of war and the date of the application.”.

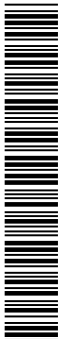
23 **SEC. 545. AUTHORITY FOR RESERVE AND RETIRED REG-**  
24 **ULAR OFFICERS TO HOLD STATE AND LOCAL**  
25 **OFFICE NOTWITHSTANDING CALL TO AC-**  
26 **TIVE DUTY.**

27 Section 973(b) of title 10, United States Code, is  
28 amended—

- 29 (1) by redesignating paragraph (4) as paragraph (5);  
30 (2) in paragraph (3)—

31 (A) by inserting “by reason of subparagraph (A)  
32 of paragraph (1)” after “applies”; and

33 (B) by striking “, the District of Columbia,” and  
34 all that follows through “such government)” and in-  
35 serting “(or of any political subdivision of a State)”;  
36 and



1 (3) by inserting after paragraph (3) the following new  
2 paragraph (4):

3 “(4)(A) An officer to whom this subsection applies by rea-  
4 son of subparagraph (B) or (C) of paragraph (1) may not hold,  
5 by election or appointment, a civil office in the government of  
6 a State (or of any political subdivision of a State) if the holding  
7 of such office while this subsection so applies to the officer—

8 “(i) is prohibited under the laws of that State; or

9 “(ii) as determined by the Secretary of Defense or by  
10 the Secretary of Homeland Security with respect to the  
11 Coast Guard when it is not operating as a service in the  
12 Navy, interferes with the performance of the officer’s duties  
13 as an officer of the armed forces.

14 “(B) Except as otherwise authorized by law, while an offi-  
15 cer referred to in subparagraph (A) is serving on active duty,  
16 the officer may not exercise the functions of a civil office held  
17 by the officer as described in that subparagraph.”; and

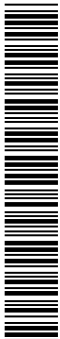
18 (4) by adding at the end the following

19 “(6) In this subsection, the term ‘State’ includes the Dis-  
20 trict of Columbia and a territory, possession, or commonwealth  
21 of the United States.”.

22 **SEC. 546. POLICY ON PUBLIC IDENTIFICATION OF CAS-**  
23 **UALTIES.**

24 (a) REQUIREMENT FOR POLICY.—Not later than 180 days  
25 after the date of the enactment of this Act, the Secretary of  
26 Defense shall prescribe the policy of the Department of Defense  
27 on public release of the name or other personally identifying in-  
28 formation of any member of the Army, Navy, Air Force, or  
29 Marine Corps who while on active duty or performing inactive-  
30 duty training is killed or injured, whose duty status becomes  
31 unknown, or who is otherwise considered to be a casualty.

32 (b) GUIDANCE ON TIMING OF RELEASE.—The policy  
33 under subsection (a) shall include guidance for ensuring that  
34 any public release of information on a member under the policy  
35 occurs only after the lapse of an appropriate period following  
36 notification of the next-of-kin regarding the casualty status of  
37 such member.



1   **SEC. 547. SPACE PERSONNEL CAREER FIELDS.**

2       (a) STRATEGY REQUIRED.—The Secretary of Defense  
3 shall develop a strategy for the Department of Defense that  
4 will—

5           (1) promote the development of space personnel career  
6 fields within each of the military departments; and

7           (2) ensure that the space personnel career fields devel-  
8 oped by the military departments are integrated with each  
9 other to the maximum extent practicable.

10       (b) REPORT.—Not later than February 1, 2004, the Sec-  
11 retary shall submit to the Committees on Armed Services of the  
12 Senate and the House of Representatives a report on the strat-  
13 egy developed under subsection (a). The report shall include the  
14 following:

15           (1) A statement of the strategy developed under sub-  
16 section (a), together with an explanation of that strategy.

17           (2) An assessment of the measures required for the  
18 Department of Defense and the military departments to in-  
19 tegrate the space personnel career fields of the military de-  
20 partments.

21           (3) A comprehensive assessment of the adequacy of  
22 the actions of the Secretary of Air Force pursuant to sec-  
23 tion 8084 of title 10, United States Code, to establish for  
24 Air Force officers a career field for space.

25       (c) GENERAL ACCOUNTING OFFICE REVIEW AND RE-  
26 PORTS.—(1) The Comptroller General shall review the strategy  
27 developed under subsection (a) and the status of efforts by the  
28 military departments in developing space personnel career  
29 fields.

30           (2) The Comptroller General shall submit to the commit-  
31 tees referred to in subsection (b) two reports on the review  
32 under paragraph (1), as follows:

33           (A) Not later than June 15, 2004, the Comptroller  
34 General shall submit a report that assesses how effective  
35 that Department of Defense strategy and the efforts by the  
36 military departments, when implemented, are likely to be  
37 for developing the personnel required by each of the mili-



1        tary departments who are expert in development of space  
2        doctrine and concepts of space operations, the development  
3        of space systems, and operation of space systems.

4        (B) Not later than March 15, 2005, the Comptroller  
5        General shall submit a report that assesses, as of the date  
6        of the report—

7            (i) the effectiveness of that Department of Defense  
8            strategy and the efforts by the military departments in  
9            developing the personnel required by each of the mili-  
10          tary departments who are expert in development of  
11          space doctrine and concepts of space operations, the de-  
12          velopment of space systems, and in operation of space  
13          systems; and

14          (ii) progress made in integrating the space career  
15          fields of the military departments.

16        **SEC. 548. DEPARTMENT OF DEFENSE JOINT ADVER-**  
17        **TISING, MARKET RESEARCH, AND STUDIES**  
18        **PROGRAM.**

19          (a) PROGRAM AUTHORIZED.—The Secretary of Defense  
20          may carry out a joint advertising, market research, and studies  
21          program to complement the recruiting advertising programs of  
22          the military departments and improve the ability of the military  
23          departments to attract and recruit qualified individuals to serve  
24          in the Armed Forces.

25          (b) FUNDING.—Of the amount authorized to be appro-  
26          priated by section 301(5) for operation and maintenance for  
27          Defense-wide activities, \$7,500,000 may be made available to  
28          carry out the joint advertising, market research, and studies  
29          program.

30        **SEC. 549. LIMITATION ON FORCE STRUCTURE REDUC-**  
31        **TIONS IN NAVAL AND MARINE CORPS RE-**  
32        **SERVE AVIATION SQUADRONS.**

33          The Secretary of the Navy may not reduce or disestablish  
34          a Naval Reserve or Marine Corps Reserve aviation squadron  
35          before February 1, 2004.



## **Subtitle E—Military Justice Matters**

### **SEC. 551. EXTENDED LIMITATION PERIOD FOR PROSECUTION OF CHILD ABUSE CASES IN COURTS-MARTIAL.**

Subsection (b) of section 843 of title 10, United States Code (article 43 of the Uniform Code of Military Justice), is amended—

(1) by redesignating paragraph (2) as paragraph (3);  
and

(2) by inserting after paragraph (1) the following new paragraph (2):

“(2)(A) A person charged with having committed a child abuse offense against a child is liable to be tried by court-martial if the sworn charges and specifications are received before the child attains the age of 25 years by an officer exercising summary court-martial jurisdiction with respect to that person.

“(B) In subparagraph (A), the term ‘child abuse offense’ means an act that involves sexual or physical abuse of a person who has not attained the age of 16 years and constitutes any of the following offenses:

“(i) Rape or carnal knowledge in violation of section 920 of this title (article 120).

“(ii) Maiming in violation of section 924 of this title (article 124).

“(iii) Sodomy in violation of section 925 of this title (article 126).

“(iv) Aggravated assault or assault consummated by a battery in violation of section 928 of this title (article 128).

“(v) Indecent assault, assault with intent to commit murder, voluntary manslaughter, rape, or sodomy, or indecent acts or liberties with a child in violation of section 934 of this title (article 134).”.





5–45

1   **SEC. 552. CLARIFICATION OF BLOOD ALCOHOL CON-**  
2           **TENT LIMIT FOR THE OFFENSE UNDER THE**  
3           **UNIFORM CODE OF MILITARY JUSTICE OF**  
4           **DRUNKEN OPERATION OF A VEHICLE, AIR-**  
5           **CRAFT, OR VESSEL.**

6           Section 911 of title 10, United States Code (article 111  
7 of the Uniform Code of Military Justice), is amended—

8           (1) in subsection (a)(2), by striking “is in excess of”  
9 and inserting “is equal to or exceeds”; and

10          (2) in subsection (b)—

11           (A) in paragraph (1), by striking subparagraph  
12 (A) and inserting the following:

13           “(A) In the case of the operation or control of a vehi-  
14 cle, aircraft, or vessel in the United States, such limit is  
15 the lesser of—

16           “(i) the blood alcohol content limit under the law  
17 of the State in which the conduct occurred, except as  
18 may be provided under paragraph (2) for conduct on  
19 a military installation that is in more than one State;  
20 or

21           “(ii) the blood alcohol content limit specified in  
22 paragraph (3).”;

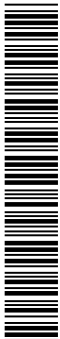
23           (B) in paragraphs (1)(B) and (3), by striking  
24 “maximum”; and

25           (C) in paragraph (4)(A), by striking “maximum  
26 permissible” and all that follows through the period at  
27 the end and inserting “amount of alcohol concentration  
28 in a person’s blood or breath at which operation or con-  
29 trol of a vehicle, aircraft, or vessel is prohibited.”.

30           **Subtitle F—Benefits**

31   **SEC. 561. ADDITIONAL CLASSES OF INDIVIDUALS ELIGI-**  
32           **BLE TO PARTICIPATE IN THE FEDERAL**  
33           **LONG-TERM CARE INSURANCE PROGRAM.**

34           (a) CERTAIN EMPLOYEES OF THE DISTRICT OF COLUM-  
35 BIA GOVERNMENT.—Section 9001(1) of title 5, United States  
36 Code, is amended by striking “2105(c),” and all that follows  
37 and inserting “2105(c).”.



(b) FORMER FEDERAL EMPLOYEES WHO WOULD BE ELIGIBLE TO BEGIN RECEIVING AN ANNUITY UPON ATTAINING THE REQUISITE MINIMUM AGE.—Section 9001(2) of title 5, United States Code, is amended—

(1) in subparagraph (A), by striking “and” at the end;

(2) in subparagraph (B), by striking the period and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(C) any former employee who, on the basis of his or her service, would meet all requirements for being considered an ‘annuitant’ within the meaning of subchapter III of chapter 83, chapter 84, or any other retirement system for employees of the Government, but for the fact that such former employee has not attained the minimum age for title to annuity.”.

(c) RESERVISTS TRANSFERRED TO THE RETIRED RESERVE WHO ARE UNDER AGE 60.—Section 9001(4) of title 5, United States Code, is amended by striking “including” and all that follows through “who has” and inserting “and a member who has been transferred to the Retired Reserve and who would be entitled to retired pay under chapter 1223 of title 10 but for not having”.

(d) REFERENCE AMENDMENT.—Section 9001(2)(A) of title 5, United States Code, as amended by subsection (b), is further amended by striking “of this subsection”.

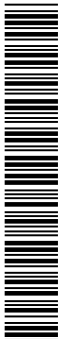
**SEC. 562. AUTHORITY TO TRANSPORT REMAINS OF RETIREES AND RETIREE DEPENDENTS WHO DIE IN MILITARY TREATMENT FACILITIES.**

(a) AUTHORIZED TRANSPORTATION.—Section 1490 of title 10, United States Code, is amended—

(1) in subsection (a), by striking “located in the United States”; and

(2) in subsection (b)(1), by striking “outside the United States or to a place”.

(b) CONFORMING AMENDMENT.—Subsection (c) of such section is amended to read as follows:



1 “(c) DEFINITION OF DEPENDENT.—In this section, the  
2 term ‘dependent’ has the meaning given such term in section  
3 1072(2) of this title.”.

4 (c) EFFECTIVE DATE.—The amendments made by this  
5 section shall apply only with respect to persons dying on or  
6 after the date of the enactment of this Act.

7 **SEC. 563. ELIGIBILITY FOR DEPENDENTS OF CERTAIN**  
8 **MOBILIZED RESERVISTS STATIONED OVER-**  
9 **SEAS TO ATTEND DEFENSE DEPENDENTS**  
10 **SCHOOLS OVERSEAS.**

11 (a) TUITION STATUS PARITY WITH DEPENDENTS OF  
12 OTHER RESERVISTS.—Section 1404(c) of the Defense Depend-  
13 ents’ Education Act of 1978 (20 U.S.C. 923(c)) is amended—

14 (1) by inserting “(1)” after “(c)”; and

15 (2) by adding at the end the following new paragraph:

16 “(2)(A) The Secretary shall include in the regulations pre-  
17 scribed under this subsection a requirement that children in the  
18 class of children described in subparagraph (B) shall be subject  
19 to the same tuition requirements, or waiver of tuition require-  
20 ments, as children in the class of children described in subpara-  
21 graph (C).

22 “(B) The class of children described in this subparagraph  
23 are children of members of reserve components of the Armed  
24 Forces who—

25 “(i) are on active duty under an order to active duty  
26 under section 12301 or 12302 of title 10, United States  
27 Code;

28 “(ii) were ordered to active duty from a location in the  
29 United States (other than in Alaska or Hawaii); and

30 “(iii) are serving on active duty outside the United  
31 States or in Alaska or Hawaii.

32 “(C) The class of children described in this subparagraph  
33 are children of members of reserve components of the Armed  
34 Forces who—

35 “(i) are on active duty under an order to active duty  
36 under section 12301 or 12302 of title 10, United States  
37 Code;



1 “(ii) were ordered to active duty from a location out-  
2 side the United States (or in Alaska or Hawaii); and

3 “(iii) are serving on active duty outside the United  
4 States or in Alaska or Hawaii.”.

5 (b) CLERICAL AMENDMENT.—The heading of such section  
6 is amended to read as follows:

7 “SPACE-AVAILABLE ENROLLMENT OF STUDENTS; TUITION”.

## 8 **Subtitle G—Domestic Violence**

### 9 **SEC. 571. TRAVEL AND TRANSPORTATION FOR DEPEND-** 10 **ENTS RELOCATING FOR REASONS OF PER-** 11 **SONAL SAFETY.**

12 Section 406(h) of title 37, United States Code, is amended  
13 by adding at the end the following new paragraph:

14 “(4)(A) If a determination described in subparagraph (B)  
15 is made with respect to a dependent of a member described in  
16 that subparagraph and a request described in subparagraph  
17 (C) is made by or on behalf of that dependent, the Secretary  
18 may provide a benefit authorized for a member under para-  
19 graph (1) or (3) to that dependent in lieu of providing such  
20 benefit to the member.

21 “(B) A determination described in this subparagraph is a  
22 determination by the commanding officer of a member that—

23 “(i) the member has committed a dependent-abuse of-  
24 fense against a dependent of the member;

25 “(ii) a safety plan and counseling have been provided  
26 to that dependent;

27 “(iii) the safety of the dependent is at risk; and

28 “(iv) the relocation of the dependent is advisable.

29 “(C) A request described in this subparagraph is a request  
30 by the spouse of a member, or by the parent of a dependent  
31 child in the case of a dependent child of a member, for reloca-  
32 tion.

33 “(D) Transportation may be provided under this para-  
34 graph for household effects or a motor vehicle only if a written  
35 agreement of the member, or an order of a court of competent  
36 jurisdiction, gives possession of the effects or vehicle to the  
37 spouse or dependent of the member concerned.



1 “(E) In this paragraph, the term ‘dependent-abuse of-  
2 fense’ means an offense described in section 1059(c) of title  
3 10.”.

4 **SEC. 572. COMMENCEMENT AND DURATION OF PAY-**  
5 **MENT OF TRANSITIONAL COMPENSATION.**

6 (a) COMMENCEMENT.—Paragraph (1)(A) of section  
7 1059(e) of title 10, United States Code, is amended by striking  
8 “shall commence” and all that follows and inserting “shall  
9 commence—

10 “(i) as of the date the court-martial sentence is  
11 adjudged if the sentence, as adjudged, includes a dis-  
12 missal, dishonorable discharge, bad conduct discharge,  
13 or forfeiture of all pay and allowances; or

14 “(ii) if there is a pretrial agreement that provides  
15 for disapproval or suspension of the dismissal, dishon-  
16 orable discharge, bad conduct discharge, or forfeiture  
17 of all pay and allowances, as of the date of the approval  
18 of the court-martial sentence by the person acting  
19 under section 860(c) of this title (article 60(c) of the  
20 Uniform Code of Military Justice) if the sentence, as  
21 approved, includes an unsuspended dismissal, dishonor-  
22 able discharge, bad conduct discharge, or forfeiture of  
23 all pay and allowances; and”.

24 (b) DURATION.—(1) Paragraph (2) of such section is  
25 amended by striking “a period of 36 months” and all that fol-  
26 lows through “12 months” and inserting “a period of not less  
27 than 12 months and not more than 36 months, as established  
28 in policies prescribed by the Secretary concerned”.

29 (2) Policies under subsection (e)(2) of section 1059 of title  
30 10, United States Code, as amended by paragraph (1), for the  
31 duration of transitional compensation payments under that sec-  
32 tion shall be prescribed under such subsection not later than  
33 six months after the date of the enactment of this Act.

34 (c) TERMINATION.—Paragraph (3)(A) of such section is  
35 amended by striking “punishment applicable to the member  
36 under the sentence is remitted, set aside, or mitigated” and in-  
37 serting “conviction is disapproved by the person acting under



1 section 860(c) of this title (article 60(c) of the Uniform Code  
2 of Military Justice) or set aside, or each such punishment ap-  
3 plicable to the member under the sentence is disapproved by  
4 the person acting under section 860(c) of this title, remitted,  
5 set aside, suspended, or mitigated”.

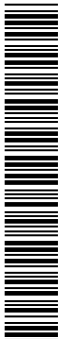
6 (d) EFFECTIVE DATE.—The amendments made by this  
7 section shall apply only with respect to cases in which a court-  
8 martial sentence is adjudged on or after the date of the enact-  
9 ment of this Act.

10 **SEC. 573. EXCEPTIONAL ELIGIBILITY FOR TRANSI-**  
11 **TIONAL COMPENSATION.**

12 (a) AUTHORITY.—Section 1059 of title 10, United States  
13 Code, is amended by adding at the end the following new sub-  
14 section:

15 “(m) EXCEPTIONAL ELIGIBILITY FOR DEPENDENTS OF  
16 FORMER MEMBERS.—(1) The Secretary concerned, under reg-  
17 ulations prescribed under subsection (k), may authorize eligi-  
18 bility for benefits under this section for dependents and former  
19 dependents of a former member of the armed forces in a case  
20 in which the dependents or former dependents are not other-  
21 wise eligible for such benefits and the Secretary concerned de-  
22 termines that the former member engaged in conduct that is  
23 a dependent-abuse offense under this section and the former  
24 member was separated from active duty other than as described  
25 in subsection (b).

26 “(2) In a case in which the Secretary concerned, under the  
27 authority of paragraph (1), authorizes benefits to be provided  
28 under this section, such benefits shall be provided in the same  
29 manner as if the former member were an individual described  
30 in subsection (b), except that, under regulations prescribed  
31 under subsection (k), the Secretary shall make such adjust-  
32 ments to the commencement and duration of payment provi-  
33 sions of subsection (e), and may make adjustments to other  
34 provisions of this section, as the Secretary considers necessary  
35 in light of the circumstances in order to provide benefits sub-  
36 stantially equivalent to the benefits provided in the case of an  
37 individual described in subsection (b).



1 “(3) The authority of the Secretary concerned under para-  
2 graph (1) may not be delegated.”.

3 (b) EFFECTIVE DATE.—The authority under subsection  
4 (m) of section 1059 of title 10, United States Code, as added  
5 by subsection (a), may be exercised with respect to eligibility  
6 for benefits under that section only for dependents and former  
7 dependents of individuals who are separated from active duty  
8 in the Armed Forces on or after the date of the enactment of  
9 this Act.

10 **SEC. 574. TYPES OF ADMINISTRATIVE SEPARATIONS**  
11 **TRIGGERING COVERAGE.**

12 Section 1059(b)(2) of title 10, United States Code, is  
13 amended by inserting “, voluntarily or involuntarily,” after  
14 “administratively separated”.

15 **SEC. 575. COMPTROLLER GENERAL REVIEW AND RE-**  
16 **PORT.**

17 (a) REVIEW.—During the two-year period beginning on  
18 the date of the enactment of this Act, the Comptroller General  
19 shall review and assess the progress of the Department of De-  
20 fense in implementing the recommendations of the Defense  
21 Task Force on Domestic Violence. In reviewing the status of  
22 the Department’s efforts, the Comptroller General should spe-  
23 cifically focus on—

24 (1) the efforts of the Department to ensure confiden-  
25 tiality for victims and accountability and education of com-  
26 manding officers and chaplains; and

27 (2) the resources that the Department of Defense has  
28 provided toward such implementation, including personnel,  
29 facilities, and other administrative support, in order to en-  
30 sure that necessary resources are provided to the organiza-  
31 tion within the Office of the Secretary of Defense with di-  
32 rect responsibility for oversight of implementation by the  
33 military departments of recommendations of the Task  
34 Force in order for that organization to carry out its duties  
35 and responsibilities.

36 (b) REPORT.—The Comptroller General shall submit to  
37 the Committee on Armed Services of the Senate and the Com-



1 mittee on Armed Services of the House of Representatives a re-  
2 port on the results of the review and assessment under sub-  
3 section (a) not later than 30 months after the date of the en-  
4 actment of this Act.

5 **SEC. 576. FATALITY REVIEWS.**

6 (a) ARMY.—(1) Part II of subtitle B of title 10, United  
7 States Code, is amended by adding at the end the following  
8 new chapter:

9 **“CHAPTER 375—MISCELLANEOUS INVESTIGA-**  
10 **TION REQUIREMENTS AND OTHER DUTIES**

“Sec.

“4061. Fatality reviews.

11 **“§ 4061. Fatality reviews**

12 “(a) REVIEW OF FATALITIES.—The Secretary of the Army  
13 shall conduct a multidisciplinary, impartial review (referred to  
14 as a ‘fatality review’) in the case of each fatality known or sus-  
15 pected to have resulted from domestic violence or child abuse  
16 against any of the following:

17 “(1) A member of the Army on active duty.

18 “(2) A current or former dependent of a member of  
19 the Army on active duty.

20 “(3) A current or former intimate partner who has a  
21 child in common or has shared a common domicile with a  
22 member of the Army on active duty.

23 “(b) MATTERS TO BE INCLUDED.—The report of a fatal-  
24 ity review under subsection (a) shall, at a minimum, include  
25 the following:

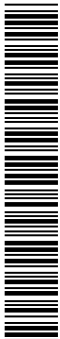
26 “(1) An executive summary.

27 “(2) Data setting forth victim demographics, injuries,  
28 autopsy findings, homicide or suicide methods, weapons,  
29 police information, assailant demographics, and household  
30 and family information.

31 “(3) Legal disposition.

32 “(4) System intervention and failures, if any, within  
33 the Department of Defense.

34 “(5) A discussion of significant findings.





1 “(6) Recommendations for systemic changes, if any,  
2 within the Department of the Army and the Department of  
3 Defense.

4 “(c) OSD GUIDANCE.—The Secretary of Defense shall  
5 prescribe guidance, which shall be uniform for the military de-  
6 partments, for the conduct of reviews by the Secretary under  
7 subsection (a).”.

8 (2) The tables of chapters at the beginning of subtitle B,  
9 and at the beginning of part II of subtitle B, of such title are  
10 each amended by inserting after the item relating to chapter  
11 373 the following new item:

**“375. Miscellaneous Investigation Requirements and  
Other Duties ..... 4061”.**

12 (b) NAVY AND MARINE CORPS.—(1) Chapter 555 of title  
13 10, United States Code, is amended by adding at the end the  
14 following new section:

15 **“§ 6036. Fatality reviews**

16 “(a) REVIEW OF FATALITIES.—The Secretary of the Navy  
17 shall conduct a multidisciplinary, impartial review (referred to  
18 as a ‘fatality review’) in the case of each fatality known or sus-  
19 pected to have resulted from domestic violence or child abuse  
20 against any of the following.

21 “(1) A member of the naval service on active duty.

22 “(2) A current or former dependent of a member of  
23 the naval service on active duty.

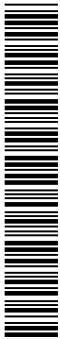
24 “(3) A current or former intimate partner who has a  
25 child in common or has shared a common domicile with a  
26 member of the naval service on active duty.

27 “(b) MATTERS TO BE INCLUDED.—The report of a fatal-  
28 ity review under subsection (a) shall, at a minimum, include  
29 the following:

30 “(1) An executive summary.

31 “(2) Data setting forth victim demographics, injuries,  
32 autopsy findings, homicide or suicide methods, weapons,  
33 police information, assailant demographics, and household  
34 and family information.

35 “(3) Legal disposition.



1 “(4) System intervention and failures, if any, within  
2 the Department of Defense.

3 “(5) A discussion of significant findings.

4 “(6) Recommendations for systemic changes, if any,  
5 within the Department of the Navy and the Department of  
6 Defense.

7 “(c) OSD GUIDANCE.—The Secretary of Defense shall  
8 prescribe guidance, which shall be uniform for the military de-  
9 partments, for the conduct of reviews by the Secretary under  
10 subsection (a).”.

11 (2) The table of sections at the beginning of such chapter  
12 is amended by adding at the end the following new item:

“6036. Fatality reviews.”.

13 (c) AIR FORCE.—(1) Part II of subtitle D of such title is  
14 amended by adding at the end the following new chapter:

15 **“CHAPTER 875—MISCELLANEOUS INVESTIGA-**  
16 **TION REQUIREMENTS AND OTHER DUTIES**

“Sec.

“9061. Fatality reviews.

17 **“§ 9061. Fatality reviews**

18 “(a) REVIEW OF FATALITIES.—The Secretary of the Air  
19 Force shall conduct a multidisciplinary, impartial review (re-  
20 ferred to as a ‘fatality review’) in the case of each fatality  
21 known or suspected to have resulted from domestic violence or  
22 child abuse against any of the following:

23 “(1) A member of the Air Force on active duty.

24 “(2) A current or former dependent of a member of  
25 the Air Force on active duty.

26 “(3) A current or former intimate partner who has a  
27 child in common or has shared a common domicile with a  
28 member of the Air Force on active duty.

29 “(b) MATTERS TO BE INCLUDED.—The report of a fatal-  
30 ity review under subsection (a) shall, at a minimum, include  
31 the following:

32 “(1) An executive summary.

33 “(2) Data setting forth victim demographics, injuries,  
34 autopsy findings, homicide or suicide methods, weapons,



1 police information, assailant demographics, and household  
2 and family information.

3 “(3) Legal disposition.

4 “(4) System intervention and failures, if any, within  
5 the Department of Defense.

6 “(5) A discussion of significant findings.

7 “(6) Recommendations for systemic changes, if any,  
8 within the Department of the Air Force and the Depart-  
9 ment of Defense.

10 “(c) OSD GUIDANCE.—The Secretary of Defense shall  
11 prescribe guidance, which shall be uniform for the military de-  
12 partments, for the conduct of reviews by the Secretary under  
13 subsection (a).”.

14 (2) The tables of chapters at the beginning of subtitle D,  
15 and at the beginning of part II of subtitle D, of such title are  
16 each amended by inserting after the item relating to chapter  
17 873 the following new item:

**“875. Miscellaneous Investigation Requirements and  
Other Duties ..... 9061”.**

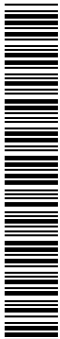
18 (d) APPLICABILITY.—Sections 4061, 6036, and 9061 of  
19 title 10, United States Code, as added by this section, apply  
20 with respect to fatalities that occur on or after the date of the  
21 enactment of this Act.

22 **SEC. 577. SENSE OF CONGRESS.**

23 It is the sense of Congress that—

24 (1) the Secretary of Defense should develop a Depart-  
25 ment of Defense strategic plan for domestic violence that  
26 incorporates the core principles of domestic violence inter-  
27 vention identified by the Defense Task Force on Domestic  
28 Violence in its third annual report under section 591(e) of  
29 the National Defense Authorization Act for Fiscal Year  
30 2000 (Public Law 106–65; 10 U.S.C. 1562 note); and

31 (2) the Secretary of each military department should  
32 establish and support a Victim Advocate Protocol as rec-  
33 ommended by the Defense Task Force on Domestic Vio-  
34 lence.



## Subtitle H—Other Matters

### SEC. 581. RECOGNITION OF MILITARY FAMILIES.

(a) FINDINGS.—Congress makes the following findings:

(1) The families of both active and reserve component members of the Armed Forces, through their sacrifices and their dedication to the Nation and its values, contribute immeasurably to the readiness of the Armed Forces.

(2) Without the continued support of military families, the Nation's ability to sustain a high quality all-volunteer military force would be undermined.

(3) In the perilous and challenging times of the global war on terrorism, with hundreds of thousands of active and reserve component military personnel deployed overseas in places of combat and other imminent danger, military families are making extraordinary sacrifices and will be required to do so for the foreseeable future.

(4) Beginning in 1997, military family service and support centers have responded to the encouragement and support of private, non-profit organizations to recognize and honor the American military family during the Thanksgiving period each November.

(b) MILITARY FAMILY RECOGNITION.—In view of the findings in subsection (a), Congress determines that it is appropriate that special measures be taken annually to recognize and honor the American military family.

(c) DEPARTMENT OF DEFENSE PROGRAMS AND ACTIVITIES.—The Secretary of Defense shall—

(1) implement and sustain programs, including appropriate ceremonies and activities, to recognize and honor the contributions and sacrifices of the American military family, including families of both active and reserve component military personnel;

(2) focus the celebration of the American military family during a specific period of each year to give full and proper recognition to those families; and



1 (3) seek the assistance and support of appropriate ci-  
2 vilian organizations, associations, and other entities (A) in  
3 carrying out the annual celebration of the American mili-  
4 tary family, and (B) in sustaining other, longer-term ef-  
5 forts to support the American military family.

6 **SEC. 582. PERMANENT AUTHORITY FOR SUPPORT FOR**  
7 **CERTAIN CHAPLAIN-LED MILITARY FAMILY**  
8 **SUPPORT PROGRAMS.**

9 (a) IN GENERAL.—(1) Chapter 88 of title 10, United  
10 States Code, is amended by inserting at the end of subchapter  
11 I the following new section:

12 **“§ 1789. Chaplain-led programs: authorized sup-**  
13 **port**

14 “(a) AUTHORITY.—The Secretary of a military depart-  
15 ment may provide support services described in subsection (b)  
16 to support chaplain-led programs to assist members of the  
17 armed forces on active duty and their immediate family mem-  
18 bers, and members of reserve components in an active status  
19 and their immediate family members, in building and maintain-  
20 ing a strong family structure.

21 “(b) AUTHORIZED SUPPORT SERVICES.—The support  
22 services referred to in subsection (a) are costs of transpor-  
23 tation, food, lodging, child care, supplies, fees, and training ma-  
24 terials for members of the armed forces and their family mem-  
25 bers while participating in programs referred to in that sub-  
26 section, including participation at retreats and conferences.

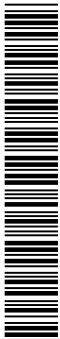
27 “(c) IMMEDIATE FAMILY MEMBERS.—In this section, the  
28 term ‘immediate family members’, with respect to a member of  
29 the armed forces, means—

30 “(1) the member’s spouse; and

31 “(2) any child (as defined in section 1072(6) of this  
32 title) of the member who is described in subparagraph (D)  
33 of section 1072(2) of this title.”.

34 (2) The table of sections at the beginning of such sub-  
35 chapter is amended by inserting after the item relating to sec-  
36 tion 1788 the following new item:

“1789. Chaplain-led programs: authorized support.”.



(b) EFFECTIVE DATE.—Section 1789 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2003.

**SEC. 583. DEPARTMENT OF DEFENSE-DEPARTMENT OF VETERANS AFFAIRS JOINT EXECUTIVE COMMITTEE.**

(a) ESTABLISHMENT OF JOINT COMMITTEE.—(1) Chapter 3 of title 38, United States Code, is amended by adding at the end the following new section:

**“§ 320. Department of Veterans Affairs-Department of Defense Joint Executive Committee**

“(a) JOINT EXECUTIVE COMMITTEE.—(1) There is established an interagency committee to be known as the Department of Veterans Affairs-Department of Defense Joint Executive Committee (hereinafter in this section referred to as the ‘Committee’).

“(2) The Committee is composed of—

“(A) the Deputy Secretary of Veterans Affairs and such other officers and employees of the Department of Veterans Affairs as the Secretary of Veterans Affairs may designate; and

“(B) the Under Secretary of Defense for Personnel and Readiness and such other officers and employees of the Department of Defense as the Secretary of Defense may designate.

“(b) ADMINISTRATIVE MATTERS.—(1) The Deputy Secretary of Veterans Affairs and the Under Secretary of Defense shall determine the size and structure of the Committee, as well as the administrative and procedural guidelines for the operation of the Committee.

“(2) The two Departments shall supply appropriate staff and resources to provide administrative support and services. Support for such purposes shall be provided at a level sufficient for the efficient operation of the Committee, including a subordinate Health Executive Committee, a subordinate Benefits Executive Committee, and such other committees or working



1 groups as considered necessary by the Deputy Secretary and  
2 Under Secretary.

3 “(c) RECOMMENDATIONS.—(1) The Committee shall rec-  
4 ommend to the Secretaries strategic direction for the joint co-  
5 ordination and sharing efforts between and within the two De-  
6 partments under section 8111 of this title and shall oversee im-  
7 plementation of those efforts.

8 “(2) The Committee shall submit to the two Secretaries  
9 and to Congress an annual report containing such rec-  
10 ommendations as the Committee considers appropriate.

11 “(d) FUNCTIONS.—In order to enable the Committee to  
12 make recommendations in its annual report under subsection  
13 (c)(2), the Committee shall do the following:

14 “(1) Review existing policies, procedures, and practices  
15 relating to the coordination and sharing of resources be-  
16 tween the two Departments.

17 “(2) Identify changes in policies, procedures, and prac-  
18 tices that, in the judgment of the Committee, would pro-  
19 mote mutually beneficial coordination, use, or exchange of  
20 use of services and resources of the two Departments, with  
21 the goal of improving the quality, efficiency and effective-  
22 ness of the delivery of benefits and services to veterans,  
23 service members, military retirees, and their families  
24 through an enhanced Department of Veterans Affairs and  
25 Department of Defense partnership.

26 “(3) Identify and assess further opportunities for the  
27 coordination and collaboration between the Departments  
28 that, in the judgment of the Committee, would not ad-  
29 versely affect the range of services, the quality of care, or  
30 the established priorities for benefits provided by either De-  
31 partment.

32 “(4) Review the plans of both Departments for the ac-  
33 quisition of additional resources, especially new facilities  
34 and major equipment and technology, in order to assess the  
35 potential effect of such plans on further opportunities for  
36 the coordination and sharing of resources.



1 “(5) Review the implementation of activities designed  
2 to promote the coordination and sharing of resources be-  
3 tween the Departments.”.

4 (2) The table of sections at the beginning of such chapter  
5 is amended by adding at the end the following new item:

“320. Department of Veterans Affairs-Department of Defense Joint Execu-  
tive Committee.”.

6 (b) CONFORMING AMENDMENTS.—(1) Subsection (c) of  
7 section 8111 of such title is repealed.

8 (2) Such section is further amended—

9 (A) in subsection (b)(2), by striking “the interagency  
10 committee provided for under subsection (c)” and inserting  
11 “the Department of Veterans Affairs-Department of De-  
12 fense Joint Executive Committee under section 320 of this  
13 title”;

14 (B) in subsection (d)(1), by striking “Committee es-  
15 tablished in subsection (c)” and inserting “Department of  
16 Veterans Affairs-Department of Defense Joint Executive  
17 Committee”;

18 (C) in subsection (e)(1), by striking “Committee under  
19 subsection (c)(2)” and inserting “Department of Veterans  
20 Affairs-Department of Defense Joint Executive Committee  
21 with respect to health care resources”; and

22 (D) in subsection (f)(2), by striking subparagraphs  
23 (B) and (C) and inserting the following:

24 “(B) The assessment of further opportunities identi-  
25 fied by the Department of Veterans Affairs-Department of  
26 Defense Joint Executive Committee under subsection  
27 (d)(3) of section 320 of this title for the sharing of health-  
28 care resources between the two Departments.

29 “(C) Any recommendation made by that committee  
30 under subsection (c)(2) of that section during that fiscal  
31 year.”.

32 (c) TECHNICAL AMENDMENTS.—Subsection (f) of such  
33 section is further amended by inserting “(Public Law 107–  
34 314)” in paragraphs (3), (4)(A), (4)(B), and (5) after “for Fis-  
35 cal Year 2003”.





5–61

(d) EFFECTIVE DATE.—(1) If this Act is enacted before October 1, 2003—

(A) section 320 of title 38, United States Code, as added by subsection (a), shall take effect on October 1, 2003; and

(B) the amendments made by subsections (b) and (c) shall take effect on October 1, 2003, immediately after the amendment made by section 721(a)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2589).

(2) If this Act is enacted on or after October 1, 2003, the amendments made by this section shall take effect on the date of the enactment of this Act.

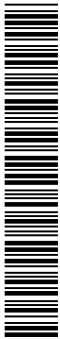
**SEC. 584. REVIEW OF THE 1991 DEATH OF MARINE CORPS COLONEL JAMES E. SABOW.**

(a) REVIEW REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall commence a review, as specified in subsection (c), of the death of Colonel James S. Sabow, United States Marine Corps, who died on January 22, 1991, at the Marine Corps Air Station, El Toro, California.

(b) FOCUS OF REVIEW.—The principal focus of the review under subsection (a) shall be to determine the cause of the death of Colonel Sabow, given the medical and forensic factors associated with that death.

(c) REVIEW BY OUTSIDE EXPERTS.—The Secretary of Defense shall provide that the evidence concerning the cause of the death of Colonel Sabow and the medical and forensic factors associated with that death shall be reviewed by medical and forensic experts outside the Department of Defense.

(d) REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a written report on the findings of the review under subsection (a). The Secretary shall include in the report (1) the Secretary's conclusions as a result of the review, including the Sec-



1     retary's conclusions regarding the cause of death of Colonel  
2     Sabow, and (2) the conclusions of the experts reviewing the  
3     matter under subsection (c).

4     **SEC. 585. POLICY ON CONCURRENT DEPLOYMENT TO**  
5                 **COMBAT ZONES OF BOTH MILITARY**  
6                 **SPOUSES OF MILITARY FAMILIES WITH**  
7                 **MINOR CHILDREN.**

8             (a) PUBLICATION OF POLICY.—Not later than 180 days  
9     after the date of the enactment of this Act, the Secretary of  
10    Defense shall—

11            (1) prescribe the policy of the Department of Defense  
12            on concurrent deployment to a combat zone of both spouses  
13            of a dual-military family with one or more minor children;  
14            and

15            (2) transmit the policy to the Committees on Armed  
16            Services of the Senate and the House of Representatives.

17            (b) DUAL-MILITARY FAMILY DEFINED.—In this section,  
18     the term “dual-military family” means a family in which both  
19     spouses are members of the Armed Forces.

20     **SEC. 586. CONGRESSIONAL NOTIFICATION OF AMEND-**  
21                 **MENT OR CANCELLATION OF DEPARTMENT**  
22                 **OF DEFENSE DIRECTIVE RELATING TO REA-**  
23                 **SONABLE ACCESS TO MILITARY INSTALLA-**  
24                 **TIONS FOR CERTAIN PERSONAL COMMER-**  
25                 **CIAL SOLICITATION.**

26            An amendment to Department of Defense Directive  
27     1344.7, “Personal Commercial Solicitation on DoD Installa-  
28     tions”, or cancellation of that directive, shall not take effect  
29     until the end of the 30-day period beginning on the date on  
30     which the Secretary of Defense submits to Congress notice of  
31     the amendment or cancellation and the reasons therefor.

32     **SEC. 587. STUDY OF NATIONAL GUARD CHALLENGE**  
33                 **PROGRAM.**

34            (a) STUDY REQUIRED.—The Secretary of Defense shall  
35     conduct a study to evaluate—

36            (1) the adequacy and impact of the matching funds re-  
37            quirement in effect under section 509(d) of title 32, United  
38            States Code, for States to participate in the National  
39            Guard Challenge Program; and



1 (2) the value of the National Guard Challenge Pro-  
2 gram to the Department of Defense.

3 (b) CONSIDERATION OF MATCHING FUND ALTER-  
4 NATIVES.—As part of the study, the Secretary shall identify  
5 potential alternatives to the matching funds structure provided  
6 for the National Guard Challenge Program under section  
7 509(d) of title 32, United States Code, such as a range of Fed-  
8 eral-State matching ratios, that would provide flexibility in the  
9 management of the program to better respond to temporary fis-  
10 cal conditions.

11 (c) SUBMISSION OF STUDY.—Not later than March 1,  
12 2004, the Secretary shall submit to Congress a report con-  
13 taining the results of the study and such recommendations as  
14 the Secretary considers appropriate in response to the study.

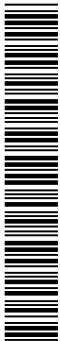
15 **SEC. 588. FINDINGS AND SENSE OF CONGRESS ON RE-**  
16 **WARD FOR INFORMATION LEADING TO RES-**  
17 **OLUTION OF STATUS OF MEMBERS OF THE**  
18 **ARMED FORCES WHO REMAIN UNAC-**  
19 **COUNTED FOR.**

20 (a) FINDINGS.—Congress makes the following findings:

21 (1) The Department of Defense estimates that there  
22 are more than 10,000 members of the Armed Forces and  
23 others who as a result of activities during the Korean War  
24 or the Vietnam War were placed in a missing status or a  
25 prisoner of war status, or who were determined to have  
26 been killed in action, although remains of those members  
27 have not been recovered, and they remain unaccounted for.

28 (2) One member of the Armed Forces, Navy Captain  
29 Michael Scott Speicher, remains unaccounted for from the  
30 first Persian Gulf War, and there have been credible re-  
31 ports of his having been seen alive in Iraq in the years  
32 since his aircraft was shot down on the first night of that  
33 war on January 16, 1991.

34 (3) The United States should pursue every lead and  
35 otherwise maintain a relentless and thorough quest to com-  
36 pletely account for the fates of those members of the  
37 Armed Forces who are missing or otherwise unaccounted  
38 for.



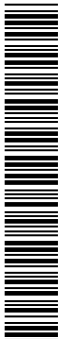
5-64

1           (4) The Secretary of Defense has the authority to dis-  
2       burse funds as a reward to individuals who provide infor-  
3       mation leading to the conclusive resolution of cases of miss-  
4       ing members of the Armed Forces.

5           (b) SENSE OF CONGRESS.—It is the sense of Congress  
6       that the Secretary of Defense should—

7           (1) use the authority available to the Secretary to dis-  
8       burse funds rewarding individuals who provide information  
9       leading to the conclusive resolution of the status of any  
10      missing member of the Armed Forces; and

11          (2) authorize and publicize a reward of \$1,000,000 for  
12      information resolving the fate of any member of the Armed  
13      Forces, such as Navy Captain Michael Scott Speicher, who  
14      the Secretary has reason to believe may be alive in cap-  
15      tivity.



1       **TITLE VI—COMPENSATION AND**  
2       **OTHER PERSONNEL BENEFITS**

**Subtitle A—Pay and Allowances**

- Sec. 601. Increase in basic pay for fiscal year 2004.  
Sec. 602. Revised annual pay adjustment process.  
Sec. 603. Computation of basic pay rate for commissioned officers with prior enlisted or warrant officer service.  
Sec. 604. Special subsistence allowance authorities for members assigned to high-cost duty location or under other unique and unusual circumstances.  
Sec. 605. Basic allowance for housing for each member married to another member without dependents when both spouses are on sea duty.  
Sec. 606. Temporary increase in authorized amount of family separation allowance.

**Subtitle B—Bonuses and Special and Incentive Pays**

- Sec. 611. One-year extension of certain bonus and special pay authorities for reserve forces.  
Sec. 612. One-year extension of certain bonus and special pay authorities for certain health care professionals.  
Sec. 613. One-year extension of special pay and bonus authorities for nuclear officers.  
Sec. 614. One-year extension of other bonus and special pay authorities.  
Sec. 615. Hazardous duty pay for duty involving ski-equipped aircraft on Antarctica or the Arctic icepack.  
Sec. 616. Special pay for reserve officers holding positions of unusual responsibility and of critical nature.  
Sec. 617. Payment of Selected Reserve reenlistment bonus to members of Selected Reserve who are mobilized.  
Sec. 618. Availability of hostile fire and imminent danger special pay for reserve component members on inactive duty.  
Sec. 619. Temporary increase in authorized amount of hostile fire and imminent danger special pay.  
Sec. 620. Retroactive payment of hostile fire or imminent danger pay for service in eastern Mediterranean Sea in Operation Iraqi Freedom.  
Sec. 621. Expansion of overseas tour extension incentive program to officers.  
Sec. 622. Repeal of congressional notification requirement for designation of critical military skills for retention bonus.  
Sec. 623. Eligibility of warrant officers for accession bonus for new officers in critical skills.  
Sec. 624. Special pay for service as member of Weapons of Mass Destruction Civil Support Team.  
Sec. 625. Incentive bonus for conversion to military occupational specialty to ease personnel shortage.  
Sec. 626. Bonus for reenlistment during service on active duty in Afghanistan, Iraq, or Kuwait.

**Subtitle C—Travel and Transportation Allowances**

- Sec. 631. Shipment of privately owned motor vehicle within continental United States.  
Sec. 632. Transportation of dependents to presence of members of the Armed Forces retired for illness or injury incurred in active duty.



## 6-2

- Sec. 633. Payment or reimbursement of student baggage storage costs for dependent children of members stationed overseas.
- Sec. 634. Contracts for full replacement value for loss or damage to personal property transported at Government expense.
- Sec. 635. Payment of lodging expenses of members during authorized leave from temporary duty location.

**Subtitle D—Retired Pay and Survivor Benefits**

- Sec. 641. Phase-in of full concurrent receipt of military retired pay and veterans disability compensation for certain military retirees.
- Sec. 642. Revisions to combat-related special compensation program.
- Sec. 643. Special rule for computation of retired pay base for commanders of combatant commands.
- Sec. 644. Survivor Benefit Plan annuities for surviving spouses of Reserves not eligible for retirement who die from a cause incurred or aggravated while on inactive-duty training.
- Sec. 645. Survivor Benefit Plan modifications.
- Sec. 646. Increase in death gratuity payable with respect to deceased members of the Armed Forces.
- Sec. 647. Death benefits study.

**Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits**

- Sec. 651. Expanded commissary access for Selected Reserve members, reserve retirees under age 60, and their dependents.
- Sec. 652. Defense commissary system and exchange stores system.
- Sec. 653. Limitations on private operation of defense commissary store functions.
- Sec. 654. Use of appropriated funds to operate defense commissary system.
- Sec. 655. Recovery of nonappropriated fund instrumentality and commissary store investments in real property at military installations closed or realigned.

**Subtitle F—Other Matters**

- Sec. 661. Comptroller General report on adequacy of special pays and allowances for frequently deployed members.

**Subtitle A—Pay and Allowances****SEC. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 2004.**

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—The adjustment to become effective during fiscal year 2004 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

(b) INCREASE IN BASIC PAY.—Effective on January 1, 2004, the rates of monthly basic pay for members of the uniformed services within each pay grade are as follows:



## 6-3

COMMISSIONED OFFICERS <sup>1</sup>

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O-10 <sup>2</sup>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
O-9 ...	0.00	0.00	0.00	0.00	0.00
O-8 ...	7,751.10	8,004.90	8,173.20	8,220.60	8,430.30
O-7 ...	6,440.70	6,739.80	6,878.40	6,988.50	7,187.40
O-6 ...	4,773.60	5,244.30	5,588.40	5,588.40	5,609.70
O-5 ...	3,979.50	4,482.90	4,793.40	4,851.60	5,044.80
O-4 ...	3,433.50	3,974.70	4,239.90	4,299.00	4,545.30
O-3 <sup>3</sup>	3,018.90	3,422.40	3,693.90	4,027.20	4,220.10
O-2 <sup>3</sup>	2,608.20	2,970.60	3,421.50	3,537.00	3,609.90
O-1 <sup>3</sup>	2,264.40	2,356.50	2,848.50	2,848.50	2,848.50
	Over 8	Over 10	Over 12	Over 14	Over 16
O-10 <sup>2</sup>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
O-9 ...	0.00	0.00	0.00	0.00	0.00
O-8 ...	8,781.90	8,863.50	9,197.10	9,292.80	9,579.90
O-7 ...	7,384.20	7,611.90	7,839.00	8,066.70	8,781.90
O-6 ...	5,850.00	5,882.10	5,882.10	6,216.30	6,807.30
O-5 ...	5,161.20	5,415.90	5,602.80	5,844.00	6,213.60
O-4 ...	4,809.30	5,137.80	5,394.00	5,571.60	5,673.60
O-3 <sup>3</sup>	4,431.60	4,568.70	4,794.30	4,911.30	4,911.30
O-2 <sup>3</sup>	3,609.90	3,609.90	3,609.90	3,609.90	3,609.90
O-1 <sup>3</sup>	2,848.50	2,848.50	2,848.50	2,848.50	2,848.50
	Over 18	Over 20	Over 22	Over 24	Over 26
O-10 <sup>2</sup>	\$0.00	\$12,524.70	\$12,586.20	\$12,847.80	\$13,303.80
O-9 ...	0.00	10,954.50	11,112.30	11,340.30	11,738.40
O-8 ...	9,995.70	10,379.10	10,635.30	10,635.30	10,635.30
O-7 ...	9,386.10	9,386.10	9,386.10	9,386.10	9,433.50
O-6 ...	7,154.10	7,500.90	7,698.30	7,897.80	8,285.40
O-5 ...	6,389.70	6,563.40	6,760.80	6,760.80	6,760.80
O-4 ...	5,733.00	5,733.00	5,733.00	5,733.00	5,733.00
O-3 <sup>3</sup>	4,911.30	4,911.30	4,911.30	4,911.30	4,911.30
O-2 <sup>3</sup>	3,609.50	3,609.50	3,609.50	3,609.50	3,609.50
O-1 <sup>3</sup>	2,848.50	2,848.50	2,848.50	2,848.50	2,848.50

<sup>1</sup> Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for commissioned officers in pay grades O-7 through O-10 may not exceed the rate of pay for level III of the Executive Schedule and the actual rate of basic pay for all other officers may not exceed the rate of pay for level V of the Executive Schedule.

<sup>2</sup> Subject to the preceding footnote, the rate of basic pay for an officer in this grade while serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, Commandant of the Coast Guard, or commander of a unified or specified combatant command (as defined in section 161(c) of title 10, United States Code) is \$14,634.20, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

<sup>3</sup> This table does not apply to commissioned officers in pay grade O-1, O-2, or O-3 who have been credited with over 4 years of active duty service as an enlisted member or warrant officer.



6-4

**COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER**

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O-3E	\$0.00	\$0.00	\$0.00	\$4,027.20	\$4,220.10
O-2E	0.00	0.00	0.00	3,537.00	3,609.90
O-1E	0.00	0.00	0.00	2,848.50	3,042.30
	Over 8	Over 10	Over 12	Over 14	Over 16
O-3E	\$4,431.60	\$4,568.70	\$4,794.30	\$4,984.20	\$5,092.80
O-2E	3,724.80	3,918.60	4,068.60	4,180.20	4,180.20
O-1E	3,154.50	3,269.40	3,382.20	3,537.00	3,537.00
	Over 18	Over 20	Over 22	Over 24	Over 26
O-3E	\$5,241.30	\$5,241.30	\$5,241.30	\$5,241.30	\$5,241.30
O-2E	4,180.20	4,180.20	4,180.20	4,180.20	4,180.20
O-1E	3,537.00	3,537.00	3,537.00	3,537.00	3,537.00

**WARRANT OFFICERS<sup>1</sup>**

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W-5 ..	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
W-4 ..	3,119.40	3,355.80	3,452.40	3,547.20	3,710.40
W-3 ..	2,848.80	2,967.90	3,089.40	3,129.30	3,257.10
W-2 ..	2,505.90	2,649.00	2,774.10	2,865.30	2,943.30
W-1 ..	2,212.80	2,394.00	2,515.20	2,593.50	2,802.30
	Over 8	Over 10	Over 12	Over 14	Over 16
W-5 ..	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
W-4 ..	3,871.50	4,035.00	4,194.30	4,359.00	4,617.30
W-3 ..	3,403.20	3,595.80	3,786.30	3,988.80	4,140.60
W-2 ..	3,157.80	3,321.60	3,443.40	3,562.20	3,643.80
W-1 ..	2,928.30	3,039.90	3,164.70	3,247.20	3,321.90
	Over 18	Over 20	Over 22	Over 24	Over 26
W-5 ..	\$0.00	\$5,360.70	\$5,544.30	\$5,728.80	\$5,914.20
W-4 ..	4,782.60	4,944.30	5,112.00	5,277.00	5,445.90
W-3 ..	4,291.80	4,356.90	4,424.10	4,570.20	4,716.30
W-2 ..	3,712.50	3,843.00	3,972.60	4,103.70	4,103.70
W-1 ..	3,443.70	3,535.80	3,535.80	3,535.80	3,535.80

<sup>1</sup> Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for warrant officers may not exceed the rate of pay for level V of the Executive Schedule.





## 6–5

ENLISTED MEMBERS <sup>1</sup>

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
E–9 <sup>2</sup>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
E–8 ...	0.00	0.00	0.00	0.00	0.00
E–7 ...	2,145.00	2,341.20	2,430.60	2,549.70	2,642.10
E–6 ...	1,855.50	2,041.20	2,131.20	2,218.80	2,310.00
E–5 ...	1,700.10	1,813.50	1,901.10	1,991.10	2,130.60
E–4 ...	1,558.20	1,638.30	1,726.80	1,814.10	1,891.50
E–3 ...	1,407.00	1,495.50	1,585.50	1,585.50	1,585.50
E–2 ...	1,337.70	1,337.70	1,337.70	1,337.70	1,337.70
E–1 <sup>3</sup>	1,193.40	1,193.40	1,193.40	1,193.40	1,193.40
	Over 8	Over 10	Over 12	Over 14	Over 16
E–9 <sup>2</sup>	\$0.00	\$3,769.20	\$3,854.70	\$3,962.40	\$4,089.30
E–8 ...	3,085.50	3,222.00	3,306.30	3,407.70	3,517.50
E–7 ...	2,801.40	2,891.10	2,980.20	3,139.80	3,219.60
E–6 ...	2,516.10	2,596.20	2,685.30	2,763.30	2,790.90
E–5 ...	2,250.90	2,339.70	2,367.90	2,367.90	2,367.90
E–4 ...	1,891.50	1,891.50	1,891.50	1,891.50	1,891.50
E–3 ...	1,585.50	1,585.50	1,585.50	1,585.50	1,585.50
E–2 ...	1,337.70	1,337.70	1,337.70	1,337.70	1,337.70
E–1 <sup>3</sup>	1,193.40	1,193.40	1,193.40	1,193.40	1,193.40
	Over 18	Over 20	Over 22	Over 24	Over 26
E–9 <sup>2</sup>	\$4,216.50	\$4,421.10	\$4,594.20	\$4,776.60	\$5,054.70
E–8 ...	3,715.50	3,815.70	3,986.40	4,081.20	4,314.30
E–7 ...	3,295.50	3,341.70	3,498.00	3,599.10	3,855.00
E–6 ...	2,809.80	2,809.80	2,809.80	2,809.80	2,809.80
E–5 ...	2,367.90	2,367.90	2,367.90	2,367.90	2,367.90
E–4 ...	1,891.50	1,891.50	1,891.50	1,891.50	1,891.50
E–3 ...	1,585.50	1,585.50	1,585.50	1,585.50	1,585.50
E–2 ...	1,337.70	1,337.70	1,337.70	1,337.70	1,337.70
E–1 <sup>3</sup>	1,193.40	1,193.40	1,193.40	1,193.40	1,193.40

<sup>1</sup> Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for enlisted members may not exceed the rate of pay for level V of the Executive Schedule.

<sup>2</sup> Subject to the preceding footnote, the rate of basic pay for an enlisted member in this grade while serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, is \$6,090.90, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

<sup>3</sup> In the case of members in pay grade E–1 who have served less than 4 months on active duty, the rate of basic pay is \$1,104.00.

## 1 SEC. 602. REVISED ANNUAL PAY ADJUSTMENT PROCESS.

2 (a) REQUIREMENT FOR ANNUAL ADJUSTMENT.—Sub-  
3 section (a) of section 1009 of title 37, United States Code, is  
4 amended to read as follows:

5 “(a) REQUIREMENT FOR ANNUAL ADJUSTMENT.—Effec-  
6 tive on January 1 of each year, the rates of basic pay for mem-  
7 bers of the uniformed services under section 203(a) of this title  
8 shall be increased under this section.”.

9 (b) EFFECTIVENESS OF ADJUSTMENT.—Subsection (b) of  
10 such section is amended by striking “shall—” and all that fol-  
11 lows and inserting “shall have the force and effect of law.”.



1 (c) PERCENTAGE OF ADJUSTMENT; ALTERNATIVE PAY  
2 ADJUSTMENT AUTHORITY.—Such section is further amended—

3 (1) by striking subsections (c), (d), (e), and (g);

4 (2) by redesignating subsection (f) as subsection (d);

5 (3) by inserting after subsection (b) the following new  
6 subsection (c):

7 “(c) EQUAL PERCENTAGE INCREASE FOR ALL MEM-  
8 BERS.—(1) An adjustment made under this section in a year  
9 shall provide all eligible members with an increase in the  
10 monthly basic pay that is the percentage (rounded to the near-  
11 est one-tenth of one percent) by which the ECI for the base  
12 quarter of the year before the preceding year exceeds the ECI  
13 for the base quarter of the second year before the preceding  
14 calendar year (if at all).

15 “(2) Notwithstanding paragraph (1), but subject to sub-  
16 section (d), the percentage of the adjustment taking effect  
17 under this section during each of fiscal years 2004, 2005, and  
18 2006, shall be one-half of one percentage point higher than the  
19 percentage that would otherwise be applicable under such para-  
20 graph.

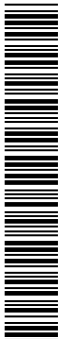
21 “(3) In this subsection:

22 “(A) The term ‘ECI’ means the Employment Cost  
23 Index (wages and salaries, private industry workers) pub-  
24 lished quarterly by the Bureau of Labor Statistics.

25 “(B) The term ‘base quarter’ for any year is the  
26 three-month period ending on September 30 of such year.”;  
27 and

28 (4) by adding at the end the following new subsection:

29 “(e) PRESIDENTIAL DETERMINATION OF NEED FOR AL-  
30 TERNATIVE PAY ADJUSTMENT.—(1) If, because of national  
31 emergency or serious economic conditions affecting the general  
32 welfare, the President considers the pay adjustment which  
33 would otherwise be required by this section in any year to be  
34 inappropriate, the President shall prepare and transmit to Con-  
35 gress before September 1 of the preceding year a plan for such  
36 alternative pay adjustments as the President considers appro-  
37 priate, together with the reasons therefor.



“(2) In evaluating an economic condition affecting the general welfare under this subsection, the President shall consider pertinent economic measures including the Indexes of Leading Economic Indicators, the Gross Domestic Product, the unemployment rate, the budget deficit, the Consumer Price Index, the Producer Price Index, the Employment Cost Index, and the Implicit Price Deflator for Personal Consumption Expenditures.

“(3) The President shall include in the plan submitted to Congress under paragraph (1) an assessment of the impact that the alternative pay adjustments proposed in the plan would have on the Government’s ability to recruit and retain well-qualified persons for the uniformed services.”.

**SEC. 603. COMPUTATION OF BASIC PAY RATE FOR COMMISSIONED OFFICERS WITH PRIOR ENLISTED OR WARRANT OFFICER SERVICE.**

Section 203(d)(2) of title 37, United States Code, is amended—

(1) in subparagraph (A), by striking “enlisted member,” and all that follows through the period and inserting “enlisted member.”; and

(2) by striking subparagraph (B) and inserting the following new subparagraph:

“(B) Service as a warrant officer, as an enlisted member, or as a warrant officer and an enlisted member, for which at least 1,460 points have been credited to the officer for the purposes of section 12732(a)(2) of title 10.”.

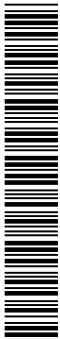
**SEC. 604. SPECIAL SUBSISTENCE ALLOWANCE AUTHORITIES FOR MEMBERS ASSIGNED TO HIGH-COST DUTY LOCATION OR UNDER OTHER UNIQUE AND UNUSUAL CIRCUMSTANCES.**

Section 402 of title 37, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection:

“(f) SPECIAL RULE FOR HIGH-COST DUTY LOCATIONS AND OTHER UNIQUE AND UNUSUAL CIRCUMSTANCES.—The



1 Secretary of Defense may authorize a member of the armed  
2 forces who is not entitled to the meals portion of the per diem  
3 in connection with an assignment in a high-cost duty location  
4 or under other unique and unusual circumstances, as deter-  
5 mined by the Secretary, to receive any or all of the following:

6 “(1) Meals at no cost to the member, regardless of the  
7 entitlement of the member to a basic allowance for subsist-  
8 ence under subsection (a).

9 “(2) A basic allowance for subsistence at the standard  
10 rate, regardless of the entitlement of the member for all  
11 meals or select meals during the duty day.

12 “(3) A supplemental subsistence allowance at a rate  
13 higher than the basic allowance for subsistence rates in ef-  
14 fect under this section, regardless of the entitlement of the  
15 member for all meals or select meals during the duty day.”.

16 **SEC. 605. BASIC ALLOWANCE FOR HOUSING FOR EACH**  
17 **MEMBER MARRIED TO ANOTHER MEMBER**  
18 **WITHOUT DEPENDENTS WHEN BOTH**  
19 **SPOUSES ARE ON SEA DUTY.**

20 (a) ENTITLEMENT.—Section 403(f)(2)(C) of title 37,  
21 United States Code, is amended—

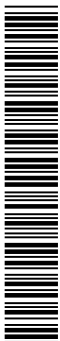
22 (1) in the first sentence, by striking “are jointly enti-  
23 tled to one basic allowance for housing” and inserting “are  
24 each entitled to a basic allowance for housing”; and

25 (2) by striking “The amount of the allowance” and all  
26 that follows and inserting “The amount of the allowance  
27 payable to a member under the preceding sentence shall be  
28 based on the without dependents rate for the pay grade of  
29 the member.”.

30 (b) EFFECTIVE DATE.—The amendments made by sub-  
31 section (a) shall take effect as of October 1, 2003, and apply  
32 to months beginning on or after that date.

33 **SEC. 606. TEMPORARY INCREASE IN AUTHORIZED**  
34 **AMOUNT OF FAMILY SEPARATION ALLOW-**  
35 **ANCE.**

36 Section 427 of title 37, United States Code, is amended  
37 by adding at the end the following new subsection:



1 “(e) TEMPORARY INCREASE IN AUTHORIZED AMOUNT OF  
2 ALLOWANCE.—For the period beginning on October 1, 2003,  
3 and ending on December 31, 2004, the monthly allowance au-  
4 thorized by subsection (a)(1) shall be increased to \$250.”.

5 **Subtitle B—Bonuses and Special and**  
6 **Incentive Pays**

7 **SEC. 611. ONE-YEAR EXTENSION OF CERTAIN BONUS**  
8 **AND SPECIAL PAY AUTHORITIES FOR RE-**  
9 **SERVE FORCES.**

10 (a) SELECTED RESERVE REENLISTMENT BONUS.—Sec-  
11 tion 308b(f) of title 37, United States Code, is amended by  
12 striking “December 31, 2003” and inserting “December 31,  
13 2004”.

14 (b) SELECTED RESERVE ENLISTMENT BONUS.—Section  
15 308c(e) of such title is amended by striking “December 31,  
16 2003” and inserting “December 31, 2004”.

17 (c) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO  
18 CERTAIN HIGH PRIORITY UNITS.—Section 308d(e) of such  
19 title is amended by striking “December 31, 2003” and insert-  
20 ing “December 31, 2004”.

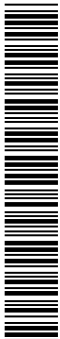
21 (d) SELECTED RESERVE AFFILIATION BONUS.—Section  
22 308e(e) of such title is amended by striking “December 31,  
23 2003” and inserting “December 31, 2004”.

24 (e) READY RESERVE ENLISTMENT AND REENLISTMENT  
25 BONUS.—Section 308h(g) of such title is amended by striking  
26 “December 31, 2003” and inserting “December 31, 2004”.

27 (f) PRIOR SERVICE ENLISTMENT BONUS.—Section  
28 308i(f) of such title is amended by striking “December 31,  
29 2003” and inserting “December 31, 2004”.

30 **SEC. 612. ONE-YEAR EXTENSION OF CERTAIN BONUS**  
31 **AND SPECIAL PAY AUTHORITIES FOR CER-**  
32 **TAIN HEALTH CARE PROFESSIONALS.**

33 (a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—  
34 Section 2130a(a)(1) of title 10, United States Code, is amend-  
35 ed by striking “December 31, 2003” and inserting “December  
36 31, 2004”.



(b) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of such title is amended by striking “January 1, 2004” and inserting “January 1, 2005”.

(c) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking “December 31, 2003” and inserting “December 31, 2004”.

(d) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of such title is amended by striking “December 31, 2003” and inserting “December 31, 2004”.

(e) SPECIAL PAY FOR SELECTED RESERVE HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302g(f) of such title is amended by striking “December 31, 2003” and inserting “December 31, 2004”.

(f) ACCESSION BONUS FOR DENTAL OFFICERS.—Section 302h(a)(1) of such title is amended by striking “December 31, 2003” and inserting “December 31, 2004”.

**SEC. 613. ONE-YEAR EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.**

(a) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking “December 31, 2003” and inserting “December 31, 2004”.

(b) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(e) of such title is amended by striking “December 31, 2003” and inserting “December 31, 2004”.

(c) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312e(d) of such title is amended by striking “December 31, 2003” and inserting “December 31, 2004”.

**SEC. 614. ONE-YEAR EXTENSION OF OTHER BONUS AND SPECIAL PAY AUTHORITIES.**

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking “December 31, 2003” and inserting “December 31, 2004”.



1 (b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Sec-  
2 tion 308(g) of such title is amended by striking “December 31,  
3 2003” and inserting “December 31, 2004”.

4 (c) ENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section  
5 309(e) of such title is amended by striking “December 31,  
6 2003” and inserting “December 31, 2004”.

7 (d) RETENTION BONUS FOR MEMBERS WITH CRITICAL  
8 MILITARY SKILLS.—Section 323(i) of such title is amended by  
9 striking “December 31, 2003” and inserting “December 31,  
10 2004”.

11 (e) ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL  
12 SKILLS.—Section 324(g) of such title is amended by striking  
13 “December 31, 2003” and inserting “December 31, 2004”.

14 **SEC. 615. HAZARDOUS DUTY PAY FOR DUTY INVOLVING**  
15 **SKI-EQUIPPED AIRCRAFT ON ANTARCTICA**  
16 **OR THE ARCTIC ICEPACK.**

17 (a) ADDITIONAL TYPE OF DUTY ELIGIBLE FOR PAY.—  
18 Section 301(a) of title 37, United States Code, is amended—

19 (1) in paragraph (11), by striking “or” at the end;

20 (2) by redesignating paragraph (12) as paragraph  
21 (13); and

22 (3) by inserting after paragraph (11) the following  
23 new paragraph:

24 “(12) involving use of ski-equipped aircraft on the  
25 ground in Antarctica or on the Arctic ice-pack; or”.

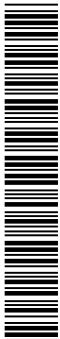
26 (b) MONTHLY AMOUNT.—Subsection (c) of such section is  
27 amended—

28 (1) in paragraph (1), by striking “(11)” and inserting  
29 “(12)”; and

30 (2) in paragraph (2)(A), by striking “(12)” and in-  
31 serting “(13)”.

32 (c) TECHNICAL AMENDMENTS.—(1) Subsections (a)(2),  
33 (b), (c), and (f)(2)(A) of such section are amended by striking  
34 “clause” each place it appears and inserting “paragraph”.

35 (2) Subsection (c)(1) of such section is amended by strik-  
36 ing “clauses” and inserting “paragraphs”.



(d) EFFECTIVE DATE.—Paragraph (12) of section 301(a) of title 37, United States Code, as added by subsection (a)(3), shall apply to duty described in such paragraph that is performed on or after October 1, 2003.

**SEC. 616. SPECIAL PAY FOR RESERVE OFFICERS HOLDING POSITIONS OF UNUSUAL RESPONSIBILITY AND OF CRITICAL NATURE.**

(a) ELIGIBILITY.—Section 306 of title 37, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting “(1)” after “(a)”;

(B) by striking “who is entitled to the basic pay of pay grade O–6 or below and” and inserting “described in paragraph (2)”; and

(C) by adding at the end the following new paragraph:

“(2) An officer of the armed forces referred to in paragraph (1) is an officer who is entitled to the basic pay under section 204 of this title, or the compensation under section 206 of this title, of pay grade O–6 or below.”;

(2) by redesignating subsections (b) through (e) as subsections (e) through (f), respectively; and

(3) by inserting after subsection (a) the following new subsection (b):

“(b) If an officer entitled to compensation under section 206 of this title is paid special pay under subsection (a) for the performance of duties in a position designated under such subsection, the special pay shall be paid at the rate of  $\frac{1}{30}$  of the monthly rate authorized by such subsection for each day of the performance of duties in the designated position.”.

(b) LIMITATION.—Subsection (d) of such section, as redesignated by subsection (a)(2) of this section, is amended—

(1) by inserting “(1)” after “(d)”;

(2) in paragraph (1), as so designated, by inserting “or mobilization in support of a contingency operation” after “training”; and

(3) by adding at the end the following new paragraph:





1 “(2) Of the number of officers in the Selected Reserve of  
2 the Ready Reserve of an armed force who are not on active  
3 duty (other than for training or mobilization in support of a  
4 contingency operation), not more than 5 percent of the number  
5 of such officers in each of the pay grades O-3 and below, and  
6 not more than 10 percent of the number of such officers in pay  
7 grade O-4, O-5, or O-6, may be paid special pay under sub-  
8 section (b).”.

9 **SEC. 617. PAYMENT OF SELECTED RESERVE REENLIST-**  
10 **MENT BONUS TO MEMBERS OF SELECTED**  
11 **RESERVE WHO ARE MOBILIZED.**

12 Section 308b of title 37, United States Code, as amended  
13 by section 611(a), is further amended—

14 (1) by redesignating subsections (d), (e), and (f) as  
15 subsections (e), (f), and (g), respectively; and

16 (2) by inserting after subsection (c) the following new  
17 subsection (d):

18 “(d) PAYMENT TO MOBILIZED MEMBERS.—A member en-  
19 titled to a bonus under this section who is called or ordered to  
20 active duty shall be paid, during that period of active duty, any  
21 amount of the bonus that becomes payable to the member dur-  
22 ing that period of active duty.”.

23 **SEC. 618. AVAILABILITY OF HOSTILE FIRE AND IMMI-**  
24 **NENT DANGER SPECIAL PAY FOR RESERVE**  
25 **COMPONENT MEMBERS ON INACTIVE DUTY.**

26 (a) EXPANSION AND CLARIFICATION OF CURRENT LAW.—  
27 Section 310 of title 37, United States Code, is amended—

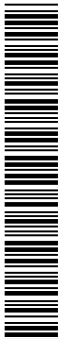
28 (1) by redesignating subsections (b) and (c) as sub-  
29 sections (c) and (d), respectively; and

30 (2) by striking subsection (a) and inserting the fol-  
31 lowing new subsections:

32 “(a) ELIGIBILITY AND SPECIAL PAY AMOUNT.—Under  
33 regulations prescribed by the Secretary of Defense, a member  
34 of a uniformed service may be paid special pay at the rate of  
35 \$150 for any month in which—

36 “(1) the member was entitled to basic pay or com-  
37 pensation under section 204 or 206 of this title; and

38 “(2) the member—



1 “(A) was subject to hostile fire or explosion of hos-  
2 tile mines;

3 “(B) was on duty in an area in which the member  
4 was in imminent danger of being exposed to hostile fire  
5 or explosion of hostile mines and in which, during the  
6 period the member was on duty in the area, other  
7 members of the uniformed services were subject to hos-  
8 tile fire or explosion of hostile mines;

9 “(C) was killed, injured, or wounded by hostile  
10 fire, explosion of a hostile mine, or any other hostile ac-  
11 tion; or

12 “(D) was on duty in a foreign area in which the  
13 member was subject to the threat of physical harm or  
14 imminent danger on the basis of civil insurrection, civil  
15 war, terrorism, or wartime conditions.

16 “(b) CONTINUATION DURING HOSPITALIZATION.—A mem-  
17 ber covered by subsection (a)(2)(C) who is hospitalized for the  
18 treatment of the injury or wound may be paid special pay  
19 under this section for not more than three additional months  
20 during which the member is so hospitalized.”.

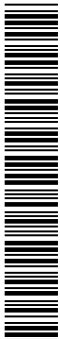
21 (b) CLERICAL AMENDMENTS.—Such section is further  
22 amended—

23 (1) in subsection (c), as redesignated by subsection  
24 (a)(1), by inserting “LIMITATIONS AND ADMINISTRA-  
25 TION.—” before “(1)”; and

26 (2) in subsection (d), as redesignated by subsection  
27 (a)(1), by inserting “DETERMINATIONS OF FACT.—” be-  
28 fore “Any”.

29 (c) EFFECTIVE DATE.—Subsections (a) and (b) of section  
30 310 of title 37, United States Code, as added by subsection  
31 (a)(2), shall take effect as of September 11, 2001.

32 (d) RELATION TO TEMPORARY INCREASE IN AUTHORIZED  
33 AMOUNT OF HOSTILE FIRE AND IMMINENT DANGER SPECIAL  
34 PAY.—(1) The amendment made by subsection (a)(2) does not  
35 affect the authority to pay an increased amount of hostile fire  
36 and imminent danger special pay under section 310 of title 37,  
37 United States Code, pursuant to—



1 (A) the amendment made by subsection (a) of section  
2 1316 of Public Law 108-11 (117 Stat. 570) during the pe-  
3 riod specified in subsection (c)(1) of such section, as modi-  
4 fied by section 113 of Public Law 108-84 (117 Stat.  
5 1044); or

6 (B) the amendment made by section 619 of this Act  
7 during the period specified in such amendment.

8 (2) Effective as of April 16, 2003, section 1316(c)(2) of  
9 Public Law 108-11 (117 Stat. 570) is amended by inserting  
10 “the dollar amounts specified in” before “sections”.

11 **SEC. 619. TEMPORARY INCREASE IN AUTHORIZED**  
12 **AMOUNT OF HOSTILE FIRE AND IMMINENT**  
13 **DANGER SPECIAL PAY.**

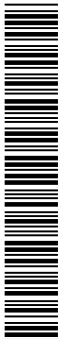
14 Section 310 of title 37, United States Code, as amended  
15 by section 618, is further amended by adding at the end the  
16 following new subsection:

17 “(e) TEMPORARY INCREASE IN AUTHORIZED AMOUNT OF  
18 SPECIAL PAY.—For the period beginning on October 1, 2003,  
19 and ending on December 31, 2004, the rate of pay authorized  
20 by subsection (a) shall be increased to \$225.”.

21 **SEC. 620. RETROACTIVE PAYMENT OF HOSTILE FIRE OR**  
22 **IMMINENT DANGER PAY FOR SERVICE IN**  
23 **EASTERN MEDITERRANEAN SEA IN OPER-**  
24 **ATION IRAQI FREEDOM.**

25 (a) PAYMENT AUTHORIZED.—The Secretary of Defense  
26 may authorize the payment of hostile fire or imminent danger  
27 pay under section 310(a) of title 37, United States Code, to  
28 members of the Armed Forces who were assigned to duty, dur-  
29 ing the period beginning on March 19, 2003, and ending on  
30 April 11, 2003, in the area specified in subsection (b) in con-  
31 nection with Operation Iraqi Freedom at any time during that  
32 period.

33 (b) SPECIFIED AREA.—The area referred to in subsection  
34 (a) is the Mediterranean Sea east of 30 degrees East Lon-  
35 gitude (sea area only).



1 **SEC. 621. EXPANSION OF OVERSEAS TOUR EXTENSION**  
2 **INCENTIVE PROGRAM TO OFFICERS.**

3 (a) SPECIAL PAY OR BONUS FOR EXTENDING OVERSEAS  
4 TOUR OF DUTY.—(1) Subsections (a) and (b) of section 314  
5 of title 37, United States Code, are amended by striking “an  
6 enlisted member” and inserting “a member”.

7 (2)(A) The heading of such section is amended to read as  
8 follows:

9 **“§ 314. Special pay or bonus: qualified members**  
10 **extending duty at designated locations**  
11 **overseas”.**

12 (B) The item relating to such section in the table of sec-  
13 tions at the beginning of chapter 5 of such title is amended to  
14 read as follows:

“314. Special pay or bonus: qualified members extending duty at designated  
locations overseas.”.

15 (b) REST AND RECUPERATIVE ABSENCE IN LIEU OF PAY  
16 OR BONUS.—(1) Subsection (a) of section 705 of title 10,  
17 United States Code, is amended by striking “an enlisted mem-  
18 ber” and inserting “a member”.

19 (2) The heading of such section, and the item relating to  
20 such section in the table of sections at the beginning of chapter  
21 40 of such title, are each amended by striking the sixth word.

22 **SEC. 622. REPEAL OF CONGRESSIONAL NOTIFICATION**  
23 **REQUIREMENT FOR DESIGNATION OF CRIT-**  
24 **ICAL MILITARY SKILLS FOR RETENTION**  
25 **BONUS.**

26 Section 323(b) of title 37, United States Code, is  
27 amended—

28 (1) by striking “(1)”; and

29 (2) by striking paragraph (2).

30 **SEC. 623. ELIGIBILITY OF WARRANT OFFICERS FOR AC-**  
31 **CESSION BONUS FOR NEW OFFICERS IN**  
32 **CRITICAL SKILLS.**

33 Section 324 of title 37, United States Code, is amended  
34 in subsections (a) and (f)(1) by inserting “or an appointment”  
35 after “commission”.



1 **SEC. 624. SPECIAL PAY FOR SERVICE AS MEMBER OF**  
2 **WEAPONS OF MASS DESTRUCTION CIVIL**  
3 **SUPPORT TEAM.**

4 (a) IN GENERAL.—Chapter 5 of title 37, United States  
5 Code, is amended by inserting after section 305a the following  
6 new section:

7 **“§ 305b. Special pay: service as member of Weap-**  
8 **ons of Mass Destruction Civil Support**  
9 **Team**

10 “(a) SPECIAL PAY AUTHORIZED.—The Secretary of a  
11 military department may pay special pay under this subsection  
12 to members of an armed force under the jurisdiction of the  
13 Secretary who are entitled to basic pay under section 204 and  
14 are assigned by orders to duty as members of a Weapons of  
15 Mass Destruction Civil Support Team if the Secretary deter-  
16 mines that the payment of such special pay is needed to ad-  
17 dress recruitment or retention concerns in that armed force.

18 “(b) MONTHLY RATE.—The monthly rate of special pay  
19 under subsection (a) may not exceed \$150.

20 “(c) INCLUSION OF RESERVE COMPONENT MEMBERS  
21 PERFORMING INACTIVE DUTY TRAINING.—(1) To the extent  
22 funds are made available to carry out this subsection, the Sec-  
23 retary of a military department may pay the special pay under  
24 subsection (a) to members of a reserve component of the armed  
25 forces who are entitled to compensation under section 206 of  
26 this title and who perform duty under orders as members of  
27 a Weapons of Mass Destruction Civil Support Team.

28 “(2) The amount of the special pay for a member referred  
29 to in paragraph (1) shall be equal to  $\frac{1}{30}$  of the monthly special  
30 pay rate in effect under subsection (b) for each day on which  
31 the member performs duty under orders as members of a  
32 Weapons of Mass Destruction Civil Support Team.

33 “(d) REGULATIONS.—Special pay under this section shall  
34 be provided in accordance with regulations prescribed by the  
35 Secretary of Defense.

36 “(e) DEFINITION.—In this section, the term ‘Weapons of  
37 Mass Destruction Civil Support Team’ means a team of mem-



1   bers of the reserve components of the armed forces that is es-  
2   tablished under section 12310(c) of title 10 in support of emer-  
3   gency preparedness programs to prepare for or to respond to  
4   any emergency involving the use of a weapon of mass destruc-  
5   tion.”.

6           (b) CLERICAL AMENDMENT.—The table of sections at the  
7   beginning of such chapter is amended by inserting after the  
8   item relating to section 305a the following new item:

“305b. Special pay: service as member of Weapons of Mass Destruction  
Civil Support Team.”.

9   **SEC. 625. INCENTIVE BONUS FOR CONVERSION TO MILI-**  
10           **TARY OCCUPATIONAL SPECIALTY TO EASE**  
11           **PERSONNEL SHORTAGE.**

12           (a) IN GENERAL.—Chapter 5 of title 37, United States  
13   Code, is amended by adding at the end the following new sec-  
14   tion:

15   **“§ 326. Incentive bonus: conversion to military oc-**  
16           **cupational specialty to ease personnel**  
17           **shortage**

18           “(a) INCENTIVE BONUS AUTHORIZED.—The Secretary  
19   concerned may pay a bonus under this section to an eligible  
20   member of the armed forces who executes a written agreement  
21   to convert to, and serve for a period of not less than three  
22   years in, a military occupational specialty for which there is a  
23   shortage of trained and qualified personnel.

24           “(b) ELIGIBLE MEMBERS.—A member is eligible to enter  
25   into an agreement under subsection (a) if—

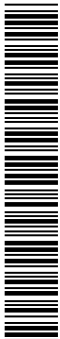
26                   “(1) the member is entitled to basic pay; and

27                   “(2) at the time the agreement is executed, the mem-  
28   ber is serving in—

29                           “(A) pay grade E-6, with not more than 10 years  
30                           of service computed under section 205 of this title; or

31                           “(B) pay grade E-5 or below, regardless of years  
32                           of service.

33           “(c) AMOUNT AND PAYMENT OF BONUS.—(1) A bonus  
34   under this section may not exceed \$4,000.



1 “(2) A bonus payable under this section shall be disbursed  
2 in one lump sum when the member’s conversion to the military  
3 occupational specialty is approved by the chief personnel officer  
4 of the member’s armed force.

5 “(d) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—  
6 A bonus paid to a member under this section is in addition to  
7 any other pay and allowances to which the member is entitled.

8 “(e) REPAYMENT OF BONUS.—(1) A member who receives  
9 a bonus under this section and who, voluntarily or because of  
10 misconduct, fails to serve in such military occupational spe-  
11 cialty for the period specified in the agreement executed under  
12 subsection (a) shall refund to the United States an amount  
13 that bears the same ratio to the bonus amount paid to the  
14 member as the unserved part of such period bears to the total  
15 period agreed to be served.

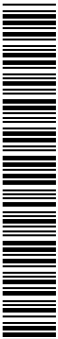
16 “(2) An obligation to reimburse the United States imposed  
17 under paragraph (1) is, for all purposes, a debt owed to the  
18 United States.

19 “(3) A discharge in bankruptcy under title 11 that is en-  
20 tered less than five years after the termination of the agree-  
21 ment for which a bonus was paid under this section shall not  
22 discharge the person signing such agreement from the debt  
23 arising under paragraph (1).

24 “(4) Under regulations prescribed pursuant to subsection  
25 (f), the Secretary concerned may waive, in whole or in part, a  
26 refund required under paragraph (1) if the Secretary deter-  
27 mines that recovery would be against equity and good con-  
28 science or would be contrary to the best interests of the United  
29 States.

30 “(f) REGULATIONS.—The Secretaries concerned shall pre-  
31 scribe regulations to carry out this section. Regulations pre-  
32 scribed by the Secretary of a military department shall be sub-  
33 ject to the approval of the Secretary of Defense.

34 “(g) TERMINATION OF AUTHORITY.—No agreement under  
35 this section may be entered into after December 31, 2006.”.



1 (b) CLERICAL AMENDMENT.—The table of sections at the  
2 beginning of such chapter is amended by adding at the end the  
3 following new item:

“326. Incentive bonus: conversion to military occupational specialty to ease  
personnel shortage.”.

4 **SEC. 626. BONUS FOR REENLISTMENT DURING SERVICE**  
5 **ON ACTIVE DUTY IN AFGHANISTAN, IRAQ, OR**  
6 **KUWAIT.**

7 (a) CRITICAL SKILL REENLISTMENT BONUS.—Section  
8 308(a) of title 37, United States Code, is amended by adding  
9 at the end the following new paragraph:

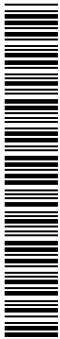
10 “(5) The Secretary of Defense may waive the eligibility re-  
11 quirement in paragraph (1)(B) in the case of a reenlistment or  
12 voluntary extension of enlistment by a member of the armed  
13 forces that is entered into as described in this subsection while  
14 the member is serving on active duty in Afghanistan, Iraq, or  
15 Kuwait in support of Operation Enduring Freedom or Oper-  
16 ation Iraqi Freedom.”.

17 (b) SELECTED RESERVE REENLISTMENT BONUS.—Sec-  
18 tion 308b(e) of such title is amended by adding at the end the  
19 following new paragraph:

20 “(3) In the case of a reenlistment or voluntary extension  
21 of enlistment by a member of the armed forces that is entered  
22 into as described in subsection (a) while the member is serving  
23 on active duty in Afghanistan, Iraq, or Kuwait in support of  
24 Operation Enduring Freedom or Operation Iraqi Freedom, the  
25 Secretary concerned may waive so much of paragraph (1)(B)  
26 or subsection (a)(2) as requires that the skill or unit in which  
27 the member reenlists or extends an enlistment be a designated  
28 skill or designated unit determined by the Secretary con-  
29 cerned.”.

30 (c) READY RESERVE REENLISTMENT BONUS.—Section  
31 308h(a) of such title is amended by adding at the end the fol-  
32 lowing new paragraph:

33 “(4) The Secretary concerned may waive the eligibility re-  
34 quirement in paragraph (2)(B) in the case of a reenlistment or  
35 voluntary extension of enlistment by a member of the armed





1 forces that is entered into as described in this subsection while  
2 the member is serving on active duty in Afghanistan, Iraq, or  
3 Kuwait in support of Operation Enduring Freedom and Oper-  
4 ation Iraqi Freedom.”.

5 (d) RETROACTIVE APPLICATION.—The amendments made  
6 by this section shall take effect as of March 18, 2003, and  
7 apply with respect to reenlistments or the voluntary extension  
8 of enlistments that are entered into on or after that date.

## 9 Subtitle C—Travel and 10 Transportation Allowances

### 11 SEC. 631. SHIPMENT OF PRIVATELY OWNED MOTOR VE- 12 HICLE WITHIN CONTINENTAL UNITED 13 STATES.

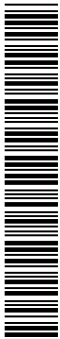
14 (a) AUTHORITY TO PROCURE CONTRACT FOR TRANSPOR-  
15 TATION OF MOTOR VEHICLE.—Section 2634 of title 10, United  
16 States Code, is amended—

17 (1) by redesignating subsection (h) as subsection (i);  
18 and

19 (2) by inserting after subsection (g) the following new  
20 subsection (h):

21 “(h) In the case of a member’s change of permanent sta-  
22 tion described in subparagraph (A) or (B) of subsection (i)(1),  
23 the Secretary concerned may authorize the member to arrange  
24 for the shipment of the motor vehicle in lieu of transportation  
25 at the expense of the United States under this section. The  
26 Secretary concerned may pay the member a monetary allow-  
27 ance in lieu of transportation, as established under section  
28 404(d)(1) of title 37, and the member shall be responsible for  
29 any transportation costs in excess of such allowance.”.

30 (b) ALLOWANCE FOR SELF-PROCUREMENT OF TRANSPOR-  
31 TATION OF MOTOR VEHICLE.—Section 406(b)(1)(B) of title  
32 37, United States Code, is amended by adding at the end the  
33 following new sentence: “In the case of the transportation of  
34 a motor vehicle arranged by the member under section 2634(h)  
35 of title 10, the Secretary concerned may pay the member, upon  
36 presentation of proof of shipment, a monetary allowance in lieu



1 of transportation, as established under section 404(d)(1) of this  
2 title.”.

3 **SEC. 632. TRANSPORTATION OF DEPENDENTS TO PRES-**  
4 **ENCE OF MEMBERS OF THE ARMED FORCES**  
5 **RETIRED FOR ILLNESS OR INJURY IN-**  
6 **CURRED IN ACTIVE DUTY.**

7 Section 411h(a) of title 37, United States Code, is  
8 amended—

9 (1) in paragraph (1), by striking “military control”  
10 and inserting “control”; and

11 (2) in paragraph (2)(A)—

12 (A) by striking “or is entitled” and inserting “, is  
13 entitled”; and

14 (B) by inserting before the semicolon at the end  
15 the following: “, or is retired for the illness or injury  
16 referred to in subparagraph (B)”.

17 **SEC. 633. PAYMENT OR REIMBURSEMENT OF STUDENT**  
18 **BAGGAGE STORAGE COSTS FOR DEPENDENT**  
19 **CHILDREN OF MEMBERS STATIONED OVER-**  
20 **SEAS.**

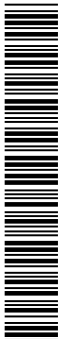
21 Section 430(b)(2) of title 37, United States Code, is  
22 amended in the first sentence by inserting before the period at  
23 the end the following: “or during a different period in the same  
24 fiscal year selected by the member”.

25 **SEC. 634. CONTRACTS FOR FULL REPLACEMENT VALUE**  
26 **FOR LOSS OR DAMAGE TO PERSONAL PROP-**  
27 **ERTY TRANSPORTED AT GOVERNMENT EX-**  
28 **PENSE.**

29 (a) **AUTHORITY.**—Chapter 157 of title 10, United States  
30 Code, is amended by inserting after section 2636 the following  
31 new section:

32 **“§ 2636a. Loss or damage to personal property**  
33 **transported at Government expense: full**  
34 **replacement value; deduction from**  
35 **amounts due carriers**

36 **“(a) PROCUREMENT OF COVERAGE.**—The Secretary of  
37 Defense may include in a contract for the transportation of  
38 baggage and household effects for members of the armed forces  
39 at Government expense a clause that requires the carrier under



1 the contract to pay the full replacement value for loss or dam-  
2 age to the baggage or household effects transported under the  
3 contract.

4 “(b) DEDUCTION UPON FAILURE OF CARRIER TO SET-  
5 TLE.—In the case of a loss or damage of baggage or household  
6 effects transported under a contract with a carrier that in-  
7 cludes a clause described in subsection (a), the amount equal  
8 to the full replacement value for the baggage or household ef-  
9 fects may be deducted from the amount owed by the United  
10 States to the carrier under the contract upon a failure of the  
11 carrier to settle a claim for such loss or total damage within  
12 a reasonable time. The amount so deducted shall be remitted  
13 to the claimant, notwithstanding section 2636 of this title.

14 “(c) INAPPLICABILITY OF RELATED LIMITS.—The limita-  
15 tions on amounts of claims that may be settled under section  
16 3721(b) of title 31 do not apply to a carrier’s contractual obli-  
17 gation to pay full replacement value under this section.

18 “(d) REGULATIONS.—The Secretary of Defense shall pre-  
19 scribe regulations for administering this section. The regula-  
20 tions shall include policies and procedures for validating and  
21 evaluating claims, validating proper claimants, and determining  
22 reasonable time for settlement.

23 “(e) TRANSPORTATION DEFINED.—In this section, the  
24 terms ‘transportation’ and ‘transport’, with respect to baggage  
25 or household effects, includes packing, crating, drayage, tem-  
26 porary storage, and unpacking of the baggage or household ef-  
27 fects.”.

28 (b) CLERICAL AMENDMENT.—The table of sections at the  
29 beginning of such chapter is amended by inserting after the  
30 item relating to section 2636 the following new item:

“2636a. Loss or damage to personal property transported at Government  
expense: full replacement value; deduction from amounts due car-  
riers.”.



1   **SEC. 635. PAYMENT OF LODGING EXPENSES OF MEM-**  
2                   **BERS DURING AUTHORIZED LEAVE FROM**  
3                   **TEMPORARY DUTY LOCATION.**

4           (a) PAYMENT OR REIMBURSEMENT AUTHORIZED.—Chap-  
5   ter 7 of title 37, United States Code, is amended by inserting  
6   after section 404a the following new section:

7   **“§ 404b. Travel and transportation allowances:**  
8                   **lodging expenses at temporary duty loca-**  
9                   **tion for members on authorized leave**

10          “(a) PAYMENT OR REIMBURSEMENT AUTHORIZED.—The  
11   Secretary concerned may pay or reimburse a member of the  
12   armed forces assigned to temporary duty as described in sub-  
13   section (b) for lodging expenses incurred by the member at the  
14   temporary duty location while the member is in an authorized  
15   leave status.

16          “(b) COVERED MEMBERS.—Subsection (a) applies with re-  
17   spect to a member assigned to temporary duty, for a period of  
18   more than 30 days, in support of a contingency operation or  
19   in other specific situations designated by the Secretary con-  
20   cerned if the member—

21               “(1) immediately before taking the authorized leave,  
22               was performing the temporary duty at a location away  
23               from the home or permanent duty station of the member;

24               “(2) was receiving a per diem allowance under section  
25               404(a)(4) of this title to cover lodging and subsistence ex-  
26               penses incurred at the temporary duty location because  
27               quarters of the United States were not available for assign-  
28               ment to the member at that location; and

29               “(3) immediately after completing the authorized  
30               leave, returns to the duty location.

31          “(c) PAYMENT LIMITATION.—The amount paid or reim-  
32   bursed under subsection (a) for a member may not exceed the  
33   lesser of—

34               “(1) the actual daily cost of lodging incurred by the  
35               member at the temporary duty location while the member  
36               was in an authorized leave status; and



1 “(2) the lodging portion of the applicable daily per  
2 diem rate for the temporary duty location.”.

3 (b) CLERICAL AMENDMENT.—The table of sections at the  
4 beginning of such chapter is amended by inserting after the  
5 item relating to section 404a the following new item:

“404b. Travel and transportation allowances: lodging expenses at temporary  
duty location for members on authorized leave.”.

## 6 **Subtitle D—Retired Pay and Survivor** 7 **Benefits**

### 8 **SEC. 641. PHASE-IN OF FULL CONCURRENT RECEIPT OF** 9 **MILITARY RETIRED PAY AND VETERANS DIS-** 10 **ABILITY COMPENSATION FOR CERTAIN MILI-** 11 **TARY RETIREES.**

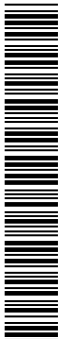
12 (a) CONCURRENT RECEIPT.—Section 1414 of title 10,  
13 United States Code, is amended to read as follows:

14 **“§ 1414. Members eligible for retired pay who are**  
15 **also eligible for veterans’ disability com-**  
16 **pensation for disabilities rated 50 percent**  
17 **or higher: concurrent payment of retired**  
18 **pay and veterans’ disability compensation**

19 “(a) PAYMENT OF BOTH RETIRED PAY AND COMPENSA-  
20 TION.—

21 “(1) IN GENERAL.—Subject to subsection (b), a mem-  
22 ber or former member of the uniformed services who is en-  
23 titled for any month to retired pay and who is also entitled  
24 for that month to veterans’ disability compensation for a  
25 qualifying service-connected disability (hereinafter in this  
26 section referred to as a ‘qualified retiree’) is entitled to be  
27 paid both for that month without regard to sections 5304  
28 and 5305 of title 38. During the period beginning on Janu-  
29 ary 1, 2004, and ending on December 31, 2013, payment  
30 of retired pay to such a qualified retiree is subject to sub-  
31 section (c).

32 “(2) QUALIFYING SERVICE-CONNECTED DISABILITY.—  
33 In this section, the term ‘qualifying service-connected dis-  
34 ability’ means a service-connected disability or combination  
35 of service-connected disabilities that is rated as not less



1 than 50 percent disabling by the Secretary of Veterans Af-  
2 fairs.

3 “(b) SPECIAL RULES FOR CHAPTER 61 DISABILITY RE-  
4 TIREES.—

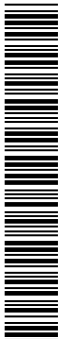
5 “(1) CAREER RETIREES.—The retired pay of a mem-  
6 ber retired under chapter 61 of this title with 20 years or  
7 more of service otherwise creditable under section 1405 of  
8 this title, or at least 20 years of service computed under  
9 section 12732 of this title, at the time of the member’s re-  
10 tirement is subject to reduction under sections 5304 and  
11 5305 of title 38, but only to the extent that the amount  
12 of the member’s retired pay under chapter 61 of this title  
13 exceeds the amount of retired pay to which the member  
14 would have been entitled under any other provision of law  
15 based upon the member’s service in the uniformed services  
16 if the member had not been retired under chapter 61 of  
17 this title.

18 “(2) DISABILITY RETIREES WITH LESS THAN 20  
19 YEARS OF SERVICE.—Subsection (a) does not apply to a  
20 member retired under chapter 61 of this title with less than  
21 20 years of service otherwise creditable under section 1405  
22 of this title, or with less than 20 years of service computed  
23 under section 12732 of this title, at the time of the mem-  
24 ber’s retirement.

25 “(c) PHASE-IN OF FULL CONCURRENT RECEIPT.—During  
26 the period beginning on January 1, 2004, and ending on De-  
27 cember 31, 2013, retired pay payable to a qualified retiree shall  
28 be determined as follows:

29 “(1) CALENDAR YEAR 2004.—For a month during  
30 2004, the amount of retired pay payable to a qualified re-  
31 tiree is the amount (if any) of retired pay in excess of the  
32 current baseline offset plus the following:

33 “(A) For a month for which the retiree receives  
34 veterans’ disability compensation for a disability rated  
35 as total, \$750.



6-27

“(B) For a month for which the retiree receives veterans’ disability compensation for a disability rated as 90 percent, \$500.

“(C) For a month for which the retiree receives veterans’ disability compensation for a disability rated as 80 percent, \$350.

“(D) For a month for which the retiree receives veterans’ disability compensation for a disability rated as 70 percent, \$250.

“(E) For a month for which the retiree receives veterans’ disability compensation for a disability rated as 60 percent, \$125.

“(F) For a month for which the retiree receives veterans’ disability compensation for a disability rated as 50 percent, \$100.

“(2) CALENDAR YEAR 2005.—For a month during 2005, the amount of retired pay payable to a qualified retiree is the sum of—

“(A) the amount specified in paragraph (1) for that qualified retiree; and

“(B) 10 percent of the difference between (i) the current baseline offset, and (ii) the amount specified in paragraph (1) for that member’s disability.

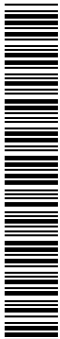
“(3) CALENDAR YEAR 2006.—For a month during 2006, the amount of retired pay payable to a qualified retiree is the sum of—

“(A) the amount determined under paragraph (2) for that qualified retiree; and

“(B) 20 percent of the difference between (i) the current baseline offset, and (ii) the amount determined under paragraph (2) for that qualified retiree.

“(4) CALENDAR YEAR 2007.—For a month during 2007, the amount of retired pay payable to a qualified retiree is the sum of—

“(A) the amount determined under paragraph (3) for that qualified retiree; and



1 “(B) 30 percent of the difference between (i) the  
2 current baseline offset, and (ii) the amount determined  
3 under paragraph (3) for that qualified retiree.

4 “(5) CALENDAR YEAR 2008.—For a month during  
5 2008, the amount of retired pay payable to a qualified re-  
6 tiree is the sum of—

7 “(A) the amount determined under paragraph (4)  
8 for that qualified retiree; and

9 “(B) 40 percent of the difference between (i) the  
10 current baseline offset, and (ii) the amount determined  
11 under paragraph (4) for that qualified retiree.

12 “(6) CALENDAR YEAR 2009.—For a month during  
13 2009, the amount of retired pay payable to a qualified re-  
14 tiree is the sum of—

15 “(A) the amount determined under paragraph (5)  
16 for that qualified retiree; and

17 “(B) 50 percent of the difference between (i) the  
18 current baseline offset, and (ii) the amount determined  
19 under paragraph (5) for that qualified retiree.

20 “(7) CALENDAR YEAR 2010.—For a month during  
21 2010, the amount of retired pay payable to a qualified re-  
22 tiree is the sum of—

23 “(A) the amount determined under paragraph (6)  
24 for that qualified retiree; and

25 “(B) 60 percent of the difference between (i) the  
26 current baseline offset, and (ii) the amount determined  
27 under paragraph (6) for that qualified retiree.

28 “(8) CALENDAR YEAR 2011.—For a month during  
29 2011, the amount of retired pay payable to a qualified re-  
30 tiree is the sum of—

31 “(A) the amount determined under paragraph (7)  
32 for that qualified retiree; and

33 “(B) 70 percent of the difference between (i) the  
34 current baseline offset, and (ii) the amount determined  
35 under paragraph (7) for that qualified retiree.





1 “(9) CALENDAR YEAR 2012.—For a month during  
2 2012, the amount of retired pay payable to a qualified re-  
3 tiree is the sum of—

4 “(A) the amount determined under paragraph (8)  
5 for that qualified retiree; and

6 “(B) 80 percent of the difference between (i) the  
7 current baseline offset, and (ii) the amount determined  
8 under paragraph (8) for that qualified retiree.

9 “(10) CALENDAR YEAR 2013.—For a month during  
10 2013, the amount of retired pay payable to a qualified re-  
11 tiree is the sum of—

12 “(A) the amount determined under paragraph (9)  
13 for that qualified retiree; and

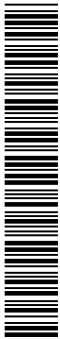
14 “(B) 90 percent of the difference between (i) the  
15 current baseline offset, and (ii) the amount determined  
16 under paragraph (9) for that qualified retiree.

17 “(11) GENERAL LIMITATION.—Retired pay determined  
18 under this subsection for a qualified retiree, if greater than  
19 the amount of retired pay otherwise applicable to that  
20 qualified retiree, shall be reduced to the amount of retired  
21 pay otherwise applicable to that qualified retiree.

22 “(d) COORDINATION WITH COMBAT-RELATED SPECIAL  
23 COMPENSATION PROGRAM.—

24 “(1) IN GENERAL.—A person who is a qualified retiree  
25 under this section and is also an eligible combat-related dis-  
26 abled uniformed services retiree under section 1413a of this  
27 title may receive special compensation in accordance with  
28 that section or retired pay in accordance with this section,  
29 but not both.

30 “(2) ANNUAL OPEN SEASON.—The Secretary con-  
31 cerned shall provide for an annual period (referred to as an  
32 ‘open season’) during which a person described in para-  
33 graph (1) shall have the right to make an election to  
34 change from receipt of special compensation in accordance  
35 with section 1413a of this title to receipt of retired pay in  
36 accordance with this section, or the reverse, as the case  
37 may be. Any such election shall be made under regulations



1 prescribed by the Secretary concerned. Such regulations  
2 shall provide for the form and manner for making such an  
3 election and shall provide for the date as of when such an  
4 election shall become effective. In the case of the Secretary  
5 of a military department, such regulations shall be subject  
6 to approval by the Secretary of Defense.

7 “(e) DEFINITIONS.—In this section:

8 “(1) RETIRED PAY.—The term ‘retired pay’ includes  
9 retainer pay, emergency officers’ retirement pay, and naval  
10 pension.

11 “(2) VETERANS’ DISABILITY COMPENSATION.—The  
12 term ‘veterans’ disability compensation’ has the meaning  
13 given the term ‘compensation’ in section 101(13) of title  
14 38.

15 “(3) DISABILITY RATED AS TOTAL.—The term ‘dis-  
16 ability rated as total’ means—

17 “(A) a disability, or combination of disabilities,  
18 that is rated as total under the standard schedule of  
19 rating disabilities in use by the Department of Vet-  
20 erans Affairs; or

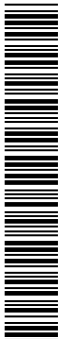
21 “(B) a disability, or combination of disabilities, for  
22 which the scheduled rating is less than total but for  
23 which a rating of total is assigned by reason of inability  
24 of the disabled person concerned to secure or follow a  
25 substantially gainful occupation as a result of disabil-  
26 ities for which veterans’ disability compensation may be  
27 paid.

28 “(4) CURRENT BASELINE OFFSET.—

29 “(A) IN GENERAL.—The term ‘current baseline  
30 offset’ for any qualified retiree means the amount for  
31 any month that is the lesser of—

32 “(i) the amount of the applicable monthly re-  
33 tired pay of the qualified retiree for that month;  
34 and

35 “(ii) the amount of monthly veterans’ dis-  
36 ability compensation to which the qualified retiree  
37 is entitled for that month.



1 “(B) APPLICABLE RETIRED PAY.—In subpara-  
2 graph (A), the term ‘applicable retired pay’ for a quali-  
3 fied retiree means the amount of monthly retired pay  
4 to which the qualified retiree is entitled, determined  
5 without regard to this section or sections 5304 and  
6 5305 of title 38, except that in the case of such a re-  
7 tiree who was retired under chapter 61 of this title,  
8 such amount is the amount of retired pay to which the  
9 member would have been entitled under any other pro-  
10 vision of law based upon the member’s service in the  
11 uniformed services if the member had not been retired  
12 under chapter 61 of this title.”.

13 (b) REPEAL OF SUPERCEDED SPECIAL COMPENSATION  
14 AUTHORITY.—Section 1413 of title 10, United States Code, is  
15 repealed.

16 (c) SOURCE OF FUNDS FOR SPECIAL COMPENSATION AU-  
17 THORITIES FOR DEPARTMENT OF DEFENSE RETIREES.—

18 (1) Sections 1413(g) and 1413a(h) of title 10, United  
19 States Code, are each amended—

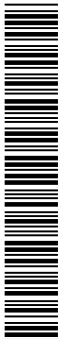
20 (A) by inserting before “Payments under” the fol-  
21 lowing new sentence: “Payments under this section for  
22 a member of the Army, Navy, Air Force, or Marine  
23 Corps shall be paid from the Department of Defense  
24 Military Retirement Fund.”; and

25 (B) by inserting “for any other member” before  
26 “for any fiscal year”.

27 (2) Section 1463(a)(1) of such title is amended by in-  
28 serting before the semicolon the following: “and payments  
29 under section 1413, 1413a, or 1414 of this title paid to  
30 such members”.

31 (3) Section 1465(b) of such title is amended by adding  
32 at the end the following new paragraph:

33 “(3) At the same time that the Secretary of Defense  
34 makes the determination required by paragraph (1) for any fis-  
35 cal year, the Secretary shall determine the amount of the  
36 Treasury contribution to be made to the Fund for the next fis-  
37 cal year under section 1466(b)(2)(D) of this title. That amount



1 shall be determined in the same manner as the determination  
2 under paragraph (1) of the total amount of Department of De-  
3 fense contributions to be made to the Fund during that fiscal  
4 year under section 1466(a) of this title, except that for pur-  
5 poses of this paragraph the Secretary, in making the calcula-  
6 tions required by subparagraphs (A) and (B) of that para-  
7 graph, shall use the single level percentages determined under  
8 subsection (c)(4), rather than those determined under sub-  
9 section (c)(1).”.

10 (4) Section 1465(c) of such title is amended—

11 (A) in paragraph (1)—

12 (i) in subparagraph (A), by inserting before  
13 the semicolon at the end the following: “, to be de-  
14 termined without regard to section 1413, 1413a, or  
15 1414 of this title”;

16 (ii) in subparagraph (B), by inserting before  
17 the period at the end the following: “, to be deter-  
18 mined without regard to section 1413, 1413a, or  
19 1414 of this title”; and

20 (iii) in the sentence following subparagraph  
21 (B), by striking “subsection (b)” and inserting  
22 “subsection (b)(1)”;

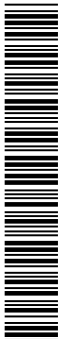
23 (B) by redesignating paragraph (4) as paragraph  
24 (5); and

25 (C) by inserting after paragraph (3) the following  
26 new paragraph (4):

27 “(4) Whenever the Secretary carries out an actuarial valu-  
28 ation under paragraph (1), the Secretary shall include as part  
29 of such valuation the following:

30 “(A) A determination of a single level percentage de-  
31 termined in the same manner as applies under subpara-  
32 graph (A) of paragraph (1), but based only upon the provi-  
33 sions of sections 1413, 1413a, and 1414 of this title.

34 “(B) A determination of a single level percentage de-  
35 termined in the same manner as applies under subpara-  
36 graph (B) of paragraph (1), but based only upon the provi-  
37 sions of sections 1413, 1413a, and 1414 of this title.



1 Such single level percentages shall be used for the purposes of  
2 subsection (b)(3).”.

3 (5) Section 1466(b) of such title is amended—

4 (A) in paragraph (1), by striking “sections  
5 1465(a) and 1465(c)” and inserting “sections 1465(a),  
6 1465(b)(3), 1465(c)(2), and 1465(c)(3)”; and

7 (B) by adding at the end of paragraph (2) the fol-  
8 lowing new subparagraph:

9 “(D) The amount for that year determined by the Sec-  
10 retary of Defense under section 1465(b)(3) of this title for  
11 the cost to the Fund arising from increased amounts pay-  
12 able from the Fund by reason of section 1413, 1413a, or  
13 1414 of this title.”.

14 (6) The amendments made by this subsection shall  
15 take effect as of October 1, 2003. The Secretary of Defense  
16 shall provide for such administrative adjustments as nec-  
17 essary to provide for payments made for any period during  
18 fiscal year 2004 before the date of the enactment of this  
19 Act to be treated as having been made in accordance with  
20 such amendments and for the provisions of such amend-  
21 ments to be implemented as if enacted as of September 30,  
22 2003.

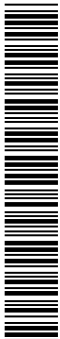
23 (d) CLERICAL AMENDMENTS.—The table of sections at  
24 the beginning of chapter 71 of such title is amended—

25 (1) by striking the item relating to section 1413; and

26 (2) by striking the item relating to section 1414 and  
27 inserting the following:

“1414. Members eligible for retired pay who are also eligible for veterans’  
disability compensation for disabilities rated 50 percent or higher:  
concurrent payment of retired pay and veterans’ disability com-  
pensation.”.

28 (e) EFFECTIVE DATE.—The amendments made by sub-  
29 sections (a) and (b) shall take effect on January 1, 2004, and  
30 shall apply to payments for months beginning on or after that  
31 date.



1   **SEC. 642. REVISIONS TO COMBAT-RELATED SPECIAL**  
2   **COMPENSATION PROGRAM.**

3       (a) EXTENSION OF PROGRAM TO COMBAT-RELATED DIS-  
4   ABILITIES RATED BELOW 60 PERCENT.—(1) Subsection (e) of  
5   section 1413a of title 10, United States Code, is amended to  
6   read as follows:

7       “(e) COMBAT-RELATED DISABILITY.—In this section, the  
8   term ‘combat-related disability’ means a disability that is com-  
9   pensable under the laws administered by the Secretary of Vet-  
10   erans Affairs and that—

11       “(1) is attributable to an injury for which the member  
12   was awarded the Purple Heart; or

13       “(2) was incurred (as determined under criteria pre-  
14   scribed by the Secretary of Defense)—

15           “(A) as a direct result of armed conflict;

16           “(B) while engaged in hazardous service;

17           “(C) in the performance of duty under conditions  
18   simulating war; or

19           “(D) through an instrumentality of war.”.

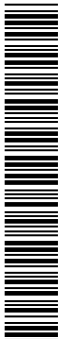
20       (2) Subsection (c)(2) of such section is amended by strik-  
21   ing “qualifying”.

22       (b) CLARIFICATION OF SERVICE REQUIRED FOR ELIGI-  
23   BILITY.—Subsection (c)(1) of such section is amended by in-  
24   serting before the semicolon the following: “or is entitled to re-  
25   tired pay under section 12731 of this title (other than by rea-  
26   son of section 12731b of this title)”.

27       (c) CLARIFICATION OF DETERMINATION OF AMOUNT OF  
28   COMPENSATION.—Subsection (b)(1) of such section is amended  
29   by striking “for a” and all that follows and inserting “under  
30   subsection (a) for any month is the amount of compensation  
31   to which the retiree is entitled under title 38 for that month,  
32   determined without regard to any disability of the retiree that  
33   is not a combat-related disability.”.

34       (d) REVISED COORDINATION PROVISION.—Subsection (f)  
35   of such section is amended to read as follows:

36       “(f) COORDINATION WITH CONCURRENT RECEIPT PROVI-  
37   SION.—Subsection (d) of section 1414 of this title provides for



1 coordination between benefits under that section and under this  
2 section.”.

3 (e) CLERICAL AMENDMENTS.—(1) The heading of such  
4 section is amended to read as follows:

5 **“§ 1413a. Combat-related special compensation”.**

6 (2) The item relating to such section in the table of sec-  
7 tions at the beginning of chapter 71 of such title is amended  
8 to read as follows:

“1413a. Combat-related special compensation.”.

9 (f) EFFECTIVE DATE.—The amendments made by sub-  
10 sections (a), (b), and (c) shall apply to payments under section  
11 1413a of title 10, United States Code, for months beginning  
12 on or after January 1, 2004. The amendment made by sub-  
13 section (d) shall take effect on January 1, 2004.

14 **SEC. 643. SPECIAL RULE FOR COMPUTATION OF RE-**  
15 **TIRED PAY BASE FOR COMMANDERS OF**  
16 **COMBATANT COMMANDS.**

17 (a) TREATMENT EQUIVALENT TO CHIEFS OF SERVICE.—  
18 Subsection (i) of section 1406 of title 10, United States Code,  
19 is amended by inserting “as a commander of a unified or speci-  
20 fied combatant command (as defined in section 161(c) of this  
21 title),” after “Chief of Service,”.

22 (b) CONFORMING AMENDMENT.—The heading for such  
23 subsection is amended by inserting “COMMANDERS OF COM-  
24 BATANT COMMANDS,” after “CHIEFS OF SERVICE,”.

25 (c) EFFECTIVE DATE AND APPLICABILITY.—The amend-  
26 ments made by this section shall take effect on the date of the  
27 enactment of this Act and shall apply with respect to officers  
28 who first become entitled to retired pay under title 10, United  
29 States Code, on or after such date.

30 **SEC. 644. SURVIVOR BENEFIT PLAN ANNUITIES FOR**  
31 **SURVIVING SPOUSES OF RESERVES NOT ELI-**  
32 **GIBLE FOR RETIREMENT WHO DIE FROM A**  
33 **CAUSE INCURRED OR AGGRAVATED WHILE**  
34 **ON INACTIVE-DUTY TRAINING.**

35 (a) SURVIVING SPOUSE ANNUITY.—Paragraph (1) of sec-  
36 tion 1448(f) of title 10, United States Code, is amended to  
37 read as follows:



1 “(1) SURVIVING SPOUSE ANNUITY.—The Secretary  
2 concerned shall pay an annuity under this subchapter to  
3 the surviving spouse of a person who—

4 “(A) is eligible to provide a reserve-component an-  
5 nuity and dies—

6 “(i) before being notified under section  
7 12731(d) of this title that he has completed the  
8 years of service required for eligibility for reserve-  
9 component retired pay; or

10 “(ii) during the 90-day period beginning on  
11 the date he receives notification under section  
12 12731(d) of this title that he has completed the  
13 years of service required for eligibility for reserve-  
14 component retired pay if he had not made an elec-  
15 tion under subsection (a)(2)(B) to participate in  
16 the Plan; or

17 “(B) is a member of a reserve component not de-  
18 scribed in subparagraph (A) and dies from an injury or  
19 illness incurred or aggravated in the line of duty during  
20 inactive-duty training.”.

21 (b) CONFORMING AMENDMENT.—The heading for sub-  
22 section (f) of section 1448 of such title is amended by inserting  
23 “OR BEFORE” after “DYING WHEN”.

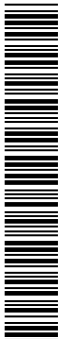
24 (c) EFFECTIVE DATE.—Subparagraph (B) of section  
25 1448(f)(1) of title 10, United States Code, as added by sub-  
26 section (a), shall take effect as of September 10, 2001, and  
27 shall apply with respect to performance of inactive-duty train-  
28 ing (as defined in section 101(d) of title 10, United States  
29 Code) on or after that date.

30 **SEC. 645. SURVIVOR BENEFIT PLAN MODIFICATIONS.**

31 (a) ELIGIBILITY OF DEPENDENT CHILDREN FOR SUR-  
32 VIVOR ANNUITIES IN CASES OF DEATHS OF MEMBERS ON AC-  
33 TIVE DUTY.—(1) Paragraph (2) of section 1448(d) of title 10,  
34 United States Code, is amended to read as follows:

35 “(2) DEPENDENT CHILDREN.—

36 “(A) ANNUITY WHEN NO ELIGIBLE SURVIVING  
37 SPOUSE.—In the case of a member described in para-





graph (1), the Secretary concerned shall pay an annuity under this subchapter to the member's dependent children under section 1450(a)(2) of this title as applicable.

“(B) OPTIONAL ANNUITY WHEN THERE IS AN ELIGIBLE SURVIVING SPOUSE.—In the case of a member described in paragraph (1) who dies on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004 and for whom there is a surviving spouse eligible for an annuity under paragraph (1), the Secretary may pay an annuity under this subchapter to the member's dependent children under section 1450(a)(3) of this title, if applicable, instead of paying an annuity to the surviving spouse under paragraph (1), if the Secretary concerned, in consultation with the surviving spouse, determines it appropriate to provide an annuity for the dependent children under this paragraph instead of an annuity for the surviving spouse under paragraph (1).”.

(2) Paragraph (1) of such section is amended by striking “The Secretary concerned” and inserting “Except as provided in paragraph (2)(B), the Secretary concerned”.

(b) VITIATION OF SURVIVOR ANNUITY ELECTIONS MADE BY DISABILITY RETIREES WHO DIE OF DISABILITY-RELATED CAUSES.—(1) Section 1448(b)(1) of such title is amended by adding at the end the following new subparagraph:

“(F) VITIATION OF ELECTION BY DISABILITY RETIREE WHO DIES OF DISABILITY-RELATED CAUSE.—If a member retired on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004 under chapter 61 of this title dies within one year after the date on which the member is so retired and the cause of death is related to a disability for which the member was retired under that chapter (as determined under regulations prescribed by the Secretary of Defense)—



1 “(i) an election made by the member under  
2 paragraph (1) to provide an annuity under the  
3 Plan to any person other than a dependent of that  
4 member (as defined in section 1072(2) of this title)  
5 is vitiated; and

6 “(ii) the amounts by which the member’s re-  
7 tired pay was reduced under section 1452 of this  
8 title shall be refunded and paid to the person to  
9 whom the annuity under the Plan would have been  
10 paid pursuant to such election.”.

11 (2) Section 1458 of such title is amended by adding at the  
12 end the following new subsection:

13 “(j) VITIATION OF ELECTION BY DISABILITY RETIREE  
14 WHO DIES OF DISABILITY-RELATED CAUSE.—If a member re-  
15 tired on or after the date of the enactment of the National De-  
16 fense Authorization Act for Fiscal Year 2004 under chapter 61  
17 of this title dies within one year after the date on which the  
18 member is so retired and the cause of death is related to a dis-  
19 ability for which the member was retired under that chapter  
20 (as determined under regulations prescribed by the Secretary of  
21 Defense)—

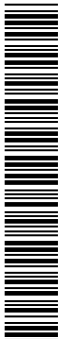
22 “(1) an election made by the member to provide a sup-  
23 plemental spouse annuity under this subchapter is vitiated;  
24 and

25 “(2) the amounts by which the member’s retired pay  
26 was reduced under section 1460 of this title shall be re-  
27 funded and paid to the person to whom the supplemental  
28 spouse annuity would have been paid pursuant to such elec-  
29 tion.”.

30 (c) INSURABLE INTEREST ANNUITY DEEMED ELEC-  
31 TIONS.—Section 1448(d) of such title is amended by adding at  
32 the end the following new paragraph:

33 “(6) DEEMED ELECTION.—

34 “(A) ANNUITY FOR DEPENDENT.—In the case of  
35 a member described in paragraph (1) who dies on or  
36 after the date of the enactment of the National Defense  
37 Authorization Act for Fiscal Year 2004, the Secretary



1 concerned may, if no other annuity is payable on behalf  
2 of the member under this subchapter, pay an annuity  
3 to a natural person who has an insurable interest in  
4 such member as if the annuity were elected by the  
5 member under subsection (b)(1). The Secretary con-  
6 cerned may pay such an annuity under this paragraph  
7 only in the case of a person who is a dependent of that  
8 member (as defined in section 1072(2) of this title).

9 “(B) COMPUTATION OF ANNUITY.—An annuity  
10 under this subparagraph shall be computed under sec-  
11 tion 1451(b) of this title as if the member had retired  
12 for total disability on the date of death with reductions  
13 as specified under section 1452(c) of this title, as appli-  
14 cable to the ages of the member and the natural person  
15 with an insurable interest.”.

16 **SEC. 646. INCREASE IN DEATH GRATUITY PAYABLE**  
17 **WITH RESPECT TO DECEASED MEMBERS OF**  
18 **THE ARMED FORCES.**

19 (a) AMOUNT OF DEATH GRATUITY.—Section 1478(a) of  
20 title 10, United States Code, is amended by striking “\$6,000”  
21 and inserting “\$12,000”.

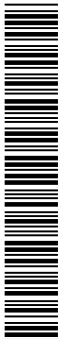
22 (b) EFFECTIVE DATE.—The amendment made by sub-  
23 section (a) shall take effect as of September 11, 2001, and  
24 shall apply with respect to deaths occurring on or after that  
25 date.

26 **SEC. 647. DEATH BENEFITS STUDY.**

27 (a) SENSE OF CONGRESS.—It is the sense of Congress  
28 that—

29 (1) the sacrifices made by the members of the Armed  
30 Forces are significant and are worthy of meaningful expres-  
31 sions of gratitude by the United States, especially in cases  
32 of sacrifice through loss of life;

33 (2) the tragic events of September 11, 2001, and sub-  
34 sequent worldwide combat operations in the Global War on  
35 Terrorism and in Operation Iraqi Freedom have high-  
36 lighted the significant disparity between the financial bene-  
37 fits for survivors of deceased members of the Armed Forces



1 and the financial benefits for survivors of civilian victims  
2 of terrorism;

3 (3) the death benefits system composed of the death  
4 gratuity paid by the Department of Defense to survivors of  
5 members of the Armed Forces, the subsequently established  
6 Servicemembers' Group Life Insurance (SGLI) program,  
7 and other benefits for survivors of deceased members has  
8 evolved over time, but there are increasing indications that  
9 the evolution of such benefits has failed to keep pace with  
10 the expansion of indemnity and compensation available to  
11 segments of United States society outside the Armed  
12 Forces, a failure that is especially apparent in a compari-  
13 son of the benefits for survivors of deceased members with  
14 the compensation provided to families of civilian victims of  
15 terrorism; and

16 (4) while the Servicemembers' Group Life Insurance  
17 (SGLI) program provides an assured source of life insur-  
18 ance for members of the Armed Forces that benefits the  
19 survivors of such members upon death, that program re-  
20 quires servicemembers to pay for that life insurance cov-  
21 erage and does not provide an assured minimum benefit.

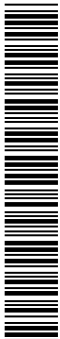
22 (b) STUDY REQUIRED.—The Secretary of Defense shall  
23 carry out a study of the totality of all current and projected  
24 death benefits for survivors of deceased members of the Armed  
25 Forces to determine the adequacy of such benefits. In carrying  
26 out the study, the Secretary shall—

27 (1) compare the Federal death benefits for survivors  
28 of deceased members of the Armed Forces with—

29 (A) commercial and other private sector death  
30 benefits plans for segments of United States society  
31 outside the Armed Forces; and

32 (B) the benefits available under Public Law 107–  
33 37 (115 Stat. 219) (commonly known as the “Public  
34 Safety Officer Benefits Bill”);

35 (2) assess the personnel policy effects that would re-  
36 sult from a revision of the death gratuity benefit to provide  
37 a stratified schedule of entitlement amounts that places a



1 premium on deaths resulting from participation in combat  
2 or from acts of terrorism;

3 (3) assess the adequacy of the current system of Sur-  
4 vivor Benefit Plan annuities under title 10, United States  
5 Code, and dependency and indemnity compensation under  
6 title 38, United States Code, and the anticipated effects (if  
7 any) of an elimination of the offset of Survivor Benefit  
8 Plan annuities by dependency and indemnity compensation  
9 payments;

10 (4) examine the commercial insurability of members of  
11 the Armed Forces in high-risk military occupational spe-  
12 cialties; and

13 (5) examine the extent to which private trusts and  
14 foundations engage in fundraising or otherwise provide fi-  
15 nancial benefits for survivors of deceased members of the  
16 Armed Forces.

17 (c) REPORT.—Not later than March 1, 2004, the Sec-  
18 retary shall submit to the Committees on Armed Services of the  
19 Senate and the House of Representatives a report on the re-  
20 sults of the study under subsection (b). The report shall include  
21 the following:

22 (1) The assessments, analyses, and conclusions result-  
23 ing from the study.

24 (2) Proposed legislation to address the deficiencies in  
25 the system of Federal death benefits for survivors of de-  
26 ceased members of the Armed Forces that are identified in  
27 the course of the study.

28 (3) An estimate of the costs of the system of death  
29 benefits provided for in the proposed legislation.

30 (d) COMPTROLLER GENERAL STUDY.—The Comptroller  
31 General shall conduct a study to identify the death benefits  
32 that are payable under Federal, State, and local laws for em-  
33 ployees of the United States, State governments, and local gov-  
34 ernments. Not later than March 1, 2004, the Comptroller Gen-  
35 eral shall submit a report containing the results of the study  
36 to the Committees on Armed Services of the Senate and the  
37 House of Representatives.



**Subtitle E—Commissary and Non-appropriated Fund Instrumentality Benefits**

**SEC. 651. EXPANDED COMMISSARY ACCESS FOR SELECTED RESERVE MEMBERS, RESERVE RETIREES UNDER AGE 60, AND THEIR DEPENDENTS.**

(a) ACCESS TO MILITARY COMMISSARIES.—Section 1065 of title 10, United States Code, is amended—

(1) in subsections (a), (b), and (c), by inserting “commissary stores and” after “use” each place it appears; and

(2) in subsection (d)—

(A) by inserting “commissary stores and” after “use” the first and third places it appears; and

(B) by inserting “stores and” after “use” the second and fourth places it appears.

(b) CONFORMING AMENDMENTS; TRANSFER OF SECTION.—Chapter 54 of such title is amended—

(1) by striking sections 1063 and 1064;

(2) in section 1063a(c)(2), by striking “section 1065(e)” and inserting “section 1063(e)”;

(3) by redesignating section 1063a, as amended by paragraph (2), as section 1064;

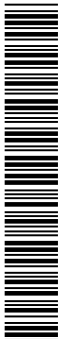
(4) by transferring section 1065, as amended by subsection (a), so as to appear after section 1062; and

(5) by striking the heading of such section, as amended by subsection (a) and transferred by paragraph (4), and inserting the following new heading:

**“§ 1063. Use of commissary stores and MWR retail facilities: members of reserve components and reserve retirees under age 60”.**

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of such chapter is amended by striking the items relating to sections 1063, 1063a, 1064, and 1065 and inserting the following new items:

“1063. Use of commissary stores and MWR retail facilities: members of reserve components and reserve retirees under age 60.



“1064. Use of commissary stores and MWR retail facilities: members of National Guard serving in federally declared disaster or national emergency.”.

**SEC. 652. DEFENSE COMMISSARY SYSTEM AND EXCHANGE STORES SYSTEM.**

(a) EXISTENCE OF SYSTEMS.—Chapter 147 of title 10, United States Code, is amended by inserting before section 2482 the following new section:

**“§ 2481. Existence of defense commissary system and exchange stores system**

“(a) IN GENERAL.—The Secretary of Defense shall operate a defense commissary system and an exchange stores system in the manner provided by this chapter and other provisions of law.

“(b) SEPARATE SYSTEMS.—(1) Except as provided in paragraph (2), the defense commissary system and the exchange stores system shall be operated as separate systems of the Department of Defense.

“(2) This subsection does not apply to the following:

“(A) Combined exchange and commissary stores operated under the authority provided by section 2490a of this title.

“(B) NEXMART stores of the Navy Exchange Service Command established before October 1, 2003.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 2482 the following new item:

“2481. Existence of defense commissary system and exchange stores system.”.

**SEC. 653. LIMITATIONS ON PRIVATE OPERATION OF DEFENSE COMMISSARY STORE FUNCTIONS.**

Section 2482(a) of title 10, United States Code, is amended—

(1) by striking the first and second sentences and inserting the following: “(1) Under such regulations as the Secretary of Defense may approve, private persons may operate selected commissary store functions, except that such functions may not include functions relating to the procure-



1 ment of products to be sold in a commissary store or func-  
2 tions relating to the overall management of a commissary  
3 system or the management of a commissary store.”; and

4 (2) by adding at the end the following new paragraph:

5 “(2) Any change to private operation of a commissary  
6 store function that is being performed by more than 10 Depart-  
7 ment of Defense civilian employees shall not take effect until  
8 the end of the 75-day period beginning on the date on which  
9 the Secretary of Defense submits to Congress written notice of  
10 the change.”.

11 **SEC. 654. USE OF APPROPRIATED FUNDS TO OPERATE**  
12 **DEFENSE COMMISSARY SYSTEM.**

13 (a) REQUIREMENT THAT COMMISSARY OPERATING EX-  
14 PENSES BE PAID FROM APPROPRIATED FUNDS.—Section  
15 2484 of title 10, United States Code, is amended—

16 (1) in subsection (a), by striking “may” and inserting  
17 “shall”; and

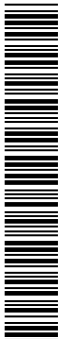
18 (2) in subsection (b), by striking “may” in the first  
19 sentence and inserting “shall”.

20 (b) SUPPLEMENTAL FUNDS FOR COMMISSARY OPER-  
21 ATIONS.—Such section is further amended by adding at the  
22 end the following new subsection:

23 “(c) SUPPLEMENTAL FUNDS FOR COMMISSARY OPER-  
24 ATIONS.—Amounts appropriated to cover the expenses of oper-  
25 ating the Defense Commissary Agency and the defense com-  
26 missary system may be supplemented with additional funds  
27 from manufacturers’ coupon redemption fees, handling fees for  
28 tobacco products, and other amounts received as reimburse-  
29 ment for other support activities provided by commissary activi-  
30 ties.”.

31 **SEC. 655. RECOVERY OF NONAPPROPRIATED FUND IN-**  
32 **STRUMENTALITY AND COMMISSARY STORE**  
33 **INVESTMENTS IN REAL PROPERTY AT MILI-**  
34 **TARY INSTALLATIONS CLOSED OR RE-**  
35 **ALIGNED.**

36 (a) 1988 LAW.—Section 204(b)(7)(C) of the Defense Au-  
37 thorization Amendments and Base Closure and Realignment  
38 Act (Public Law 100-526; 10 U.S.C. 2687 note) is amended—





(1) in the second sentence of clause (i), by striking “The Secretary may use amounts in the account (in such an aggregate amount as is provided in advance in appropriation Acts)” and inserting “Subject to the limitation in clause (iii), amounts in the reserve account are hereby made available to the Secretary, without appropriation and until expended,”;

(2) by redesignating clause (iii) as clause (iv); and

(3) by inserting after clause (ii) the following new clause (iii):

“(iii) The aggregate amount obligated from the reserve account established under clause (i) may not exceed the following:

“(I) In fiscal year 2004, \$31,000,000.

“(II) In fiscal year 2005, \$24,000,000.

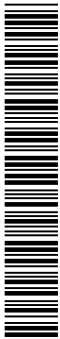
“(III) In fiscal year 2006, \$15,000,000.”.

(b) 1990 LAW.—Section 2906(d)(3) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended by striking “The Secretary may use amounts in the account (in such an aggregate amount as is provided in advance in appropriation Acts)” and inserting “Subject to the limitation contained in section 204(b)(7)(C)(iii) of the Defense Authorization Amendments and Base Closure and Realignment Act, amounts in the reserve account are hereby made available to the Secretary, without appropriation and until expended,”.

## Subtitle F—Other Matters

### SEC. 661. COMPTROLLER GENERAL REPORT ON ADEQUACY OF SPECIAL PAYS AND ALLOWANCES FOR FREQUENTLY DEPLOYED MEMBERS.

Not later than April 1, 2004, the Comptroller General shall submit to Congress a report regarding the adequacy of special pays and allowances for members of the Armed Forces who are frequently deployed away from their permanent duty stations for periods of less than 30 days. The report shall include an assessment of the eligibility requirements for the family separation allowance under section 427 of title 37, United



- 1 States Code, including those relating to required duration of
- 2 absences from the permanent duty station.



1  
2

# **TITLE VII—HEALTH CARE PROVISIONS**

## **Subtitle A—Enhanced Benefits for Reserves**

- Sec. 701. Medical and dental screening for Ready Reserve members alerted for mobilization.
- Sec. 702. Coverage for Ready Reserve members under TRICARE program.
- Sec. 703. Earlier eligibility date for TRICARE benefits for members of reserve components.
- Sec. 704. Temporary extension of transitional health care benefits.
- Sec. 705. Assessment of needs of Reserves for health care benefits.
- Sec. 706. Limitation on fiscal year 2004 outlays for temporary Reserve health care programs.
- Sec. 707. TRICARE beneficiary counseling and assistance coordinators for reserve component beneficiaries.
- Sec. 708. Eligibility of Reserve officers for health care pending orders to active duty following commissioning.

## **Subtitle B—Other Benefits Improvements**

- Sec. 711. Acceleration of implementation of chiropractic health care for members on active duty.
- Sec. 712. Reimbursement of covered beneficiaries for certain travel expenses relating to specialized dental care.
- Sec. 713. Eligibility for continued health benefits coverage extended to certain members of uniformed services.
- Sec. 714. Authority for designated providers to enroll covered beneficiaries with other primary health insurance coverage.

## **Subtitle C—Planning, Programming, and Management**

- Sec. 721. Permanent extension of authority to enter into personal services contracts for the performance of health care responsibilities at locations other than military medical treatment facilities.
- Sec. 722. Department of Defense Medicare-Eligible Retiree Health Care Fund valuations and contributions.
- Sec. 723. Surveys on continued viability of TRICARE Standard.
- Sec. 724. Plan for providing health coverage information to members, former members, and dependents eligible for certain health benefits.
- Sec. 725. Transfer of certain members of the Pharmacy and Therapeutics Committee to the Uniform Formulary Beneficiary Advisory Panel under the pharmacy benefits program.
- Sec. 726. Working group on military health care for persons reliant on health care facilities at military installations to be closed or realigned.
- Sec. 727. Joint program for development and evaluation of integrated healing care practices for members of the Armed Forces and veterans.



## Subtitle A—Enhanced Benefits for Reserves

### SEC. 701. MEDICAL AND DENTAL SCREENING FOR READY RESERVE MEMBERS ALERTED FOR MOBILIZATION.

Subsection (f) of section 1074a of title 10, United States Code, as amended by section 1114 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004, is amended to read as follows:

“(f)(1) At any time after the Secretary concerned notifies members of the Ready Reserve that the members are to be called or ordered to active duty for a period of more than 30 days, the administering Secretaries may provide to each such member any medical and dental screening and care that is necessary to ensure that the member meets the applicable medical and dental standards for deployment.

“(2) The notification to members of the Ready Reserve described in paragraph (1) shall include notice that the members are eligible for screening and care under this section.

“(3) A member provided medical or dental screening or care under paragraph (1) may not be charged for the screening or care.”.

### SEC. 702. COVERAGE FOR READY RESERVE MEMBERS UNDER TRICARE PROGRAM.

Section 1076b of title 10, United States Code, as amended by section 1115 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004, is amended to read as follows:

#### “§ 1076b. TRICARE program: coverage for members of the Ready Reserve

“(a) ELIGIBILITY.—Each member of the Selected Reserve of the Ready Reserve and each member of the Individual Ready Reserve described in section 10144(b) of this title is eligible, subject to subsection (h), to enroll in TRICARE and receive benefits under such enrollment for any period that the member—



## 7-3

1 “(1) is an eligible unemployment compensation recipi-  
2 ent; or

3 “(2) is not eligible for health care benefits under an  
4 employer-sponsored health benefits plan.

5 “(b) TYPES OF COVERAGE.—(1) A member eligible under  
6 subsection (a) may enroll for either of the following types of  
7 coverage:

8 “(A) Self alone coverage.

9 “(B) Self and family coverage.

10 “(2) An enrollment by a member for self and family covers  
11 the member and the dependents of the member who are de-  
12 scribed in subparagraph (A), (D), or (I) of section 1072(2) of  
13 this title.

14 “(c) OPEN ENROLLMENT PERIODS.—The Secretary of De-  
15 fense shall provide for at least one open enrollment period each  
16 year. During an open enrollment period, a member eligible  
17 under subsection (a) may enroll in the TRICARE program or  
18 change or terminate an enrollment in the TRICARE program.

19 “(d) SCOPE OF CARE.—(1) A member and the dependents  
20 of a member enrolled in the TRICARE program under this sec-  
21 tion shall be entitled to the same benefits under this chapter  
22 as a member of the uniformed services on active duty or a de-  
23 pendent of such a member, respectively.

24 “(2) Section 1074(c) of this title shall apply with respect  
25 to a member enrolled in the TRICARE program under this sec-  
26 tion.

27 “(e) PREMIUMS.—(1) The Secretary of Defense shall  
28 charge premiums for coverage pursuant to enrollments under  
29 this section. The Secretary shall prescribe for each of the  
30 TRICARE program options a premium for self alone coverage  
31 and a premium for self and family coverage.

32 “(2) The monthly amount of the premium in effect for a  
33 month for a type of coverage under this section shall be the  
34 amount equal to 28 percent of the total amount determined by  
35 the Secretary on an appropriate actuarial basis as being rea-  
36 sonable for the coverage.



1 “(3) The premiums payable by a member under this sub-  
2 section may be deducted and withheld from basic pay payable  
3 to the member under section 204 of title 37 or from compensa-  
4 tion payable to the member under section 206 of such title. The  
5 Secretary shall prescribe the requirements and procedures ap-  
6 plicable to the payment of premiums by members not entitled  
7 to such basic pay or compensation.

8 “(4) Amounts collected as premiums under this subsection  
9 shall be credited to the appropriation available for the Defense  
10 Health Program Account under section 1100 of this title, shall  
11 be merged with sums in such Account that are available for the  
12 fiscal year in which collected, and shall be available under sub-  
13 paragraph (B) of such section for such fiscal year.

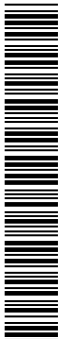
14 “(f) OTHER CHARGES.—A person who receives health care  
15 pursuant to an enrollment in a TRICARE program option  
16 under this section, including a member who receives such  
17 health care, shall be subject to the same deductibles, copay-  
18 ments, and other nonpremium charges for health care as apply  
19 under this chapter for health care provided under the same  
20 TRICARE program option to dependents described in subpara-  
21 graph (A), (D), or (I) of section 1072(2) of this title.

22 “(g) TERMINATION OF ENROLLMENT.—(1) A member en-  
23 rolled in the TRICARE program under this section may termi-  
24 nate the enrollment only during an open enrollment period pro-  
25 vided under subsection (c), except as provided in subsection  
26 (h).

27 “(2) An enrollment of a member for self alone or for self  
28 and family under this section shall terminate on the first day  
29 of the first month beginning after the date on which the mem-  
30 ber ceases to be eligible under subsection (a).

31 “(3) The enrollment of a member under this section may  
32 be terminated on the basis of failure to pay the premium  
33 charged the member under this section.

34 “(h) RELATIONSHIP TO TRANSITION TRICARE COV-  
35 ERAGE UPON SEPARATION FROM ACTIVE DUTY.—(1) A mem-  
36 ber may not enroll in the TRICARE program under this sec-  
37 tion while entitled to transitional health care under subsection



1 (a) of section 1145 of this title or while authorized to receive  
2 health care under subsection (c) of such section.

3 “(2) A member who enrolls in the TRICARE program  
4 under this section within 90 days after the date of the termi-  
5 nation of the member’s entitlement or eligibility to receive  
6 health care under subsection (a) or (c) of section 1145 of this  
7 title may terminate the enrollment at any time within one year  
8 after the date of the enrollment.

9 “(i) CERTIFICATION OF NONCOVERAGE BY OTHER  
10 HEALTH BENEFITS PLAN.—The Secretary of Defense may re-  
11 quire a member to submit any certification that the Secretary  
12 considers appropriate to substantiate the member’s assertion  
13 that the member is not covered for health care benefits under  
14 any other health benefits plan.

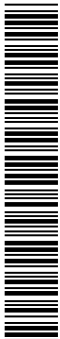
15 “(j) ELIGIBLE UNEMPLOYMENT COMPENSATION RECIPI-  
16 ENT DEFINED.—In this section, the term ‘eligible unemploy-  
17 ment compensation recipient’ means, with respect to any  
18 month, any individual who is determined eligible for any day  
19 of such month for unemployment compensation under State law  
20 (as defined in section 205(9) of the Federal-State Extended  
21 Unemployment Compensation Act of 1970), including Federal  
22 unemployment compensation laws administered through the  
23 State.

24 “(k) REGULATIONS.—The Secretary of Defense, in con-  
25 sultation with the other administering Secretaries, shall pre-  
26 scribe regulations for the administration of this section.

27 “(l) TERMINATION OF AUTHORITY.—An enrollment in  
28 TRICARE under this section may not continue after December  
29 31, 2004.”.

30 **SEC. 703. EARLIER ELIGIBILITY DATE FOR TRICARE**  
31 **BENEFITS FOR MEMBERS OF RESERVE COM-**  
32 **ONENTS.**

33 Subsection (d) of section 1074 of title 10, United States  
34 Code, as amended by section 1116 of the Emergency Supple-  
35 mental Appropriations Act for Defense and for the Reconstruc-  
36 tion of Iraq and Afghanistan, 2004, is amended to read as fol-  
37 lows:



1 “(d)(1) For the purposes of this chapter, a member of a  
2 reserve component of the armed forces who is issued a delayed-  
3 effective-date active-duty order, or is covered by such an order,  
4 shall be treated as being on active duty for a period of more  
5 than 30 days beginning on the later of the date that is—

6 “(A) the date of the issuance of such order; or

7 “(B) 90 days before the date on which the period of  
8 active duty is to commence under such order for that mem-  
9 ber.

10 “(2) In this subsection, the term ‘delayed-effective-date ac-  
11 tive-duty order’ means an order to active duty for a period of  
12 more than 30 days in support of a contingency operation under  
13 a provision of law referred to in section 101(a)(13)(B) of this  
14 title that provides for active-duty service to begin under such  
15 order on a date after the date of the issuance of the order.

16 “(3) This subsection shall cease to be effective on Decem-  
17 ber 31, 2004.”.

18 **SEC. 704. TEMPORARY EXTENSION OF TRANSITIONAL**  
19 **HEALTH CARE BENEFITS.**

20 (a) EXTENSION.—Subject to subsection (b), and notwith-  
21 standing section 1117 of the Emergency Supplemental Appro-  
22 priations Act for Defense and for the Reconstruction of Iraq  
23 and Afghanistan, 2004, during the period beginning on the  
24 date of the enactment of this Act and ending on December 31,  
25 2004, section 1145(a) of title 10, United States Code, shall be  
26 administered by substituting for paragraph (3) the following:

27 “(3) Transitional health care for a member under sub-  
28 section (a) shall be available for 180 days beginning on the  
29 date on which the member is separated from active duty.”.

30 (b) EFFECTIVE DATE.—(1) Subsection (a) shall apply  
31 with respect to separations from active duty that take effect on  
32 or after the date of the enactment of this Act.

33 (2) Beginning on January 1, 2005, the period for which  
34 a member is provided transitional health care benefits under  
35 section 1145(a) of title 10, United States Code, shall be ad-  
36 justed as necessary to comply with the limits provided under  
37 paragraph (3) of such section.





7-7

1   **SEC. 705. ASSESSMENT OF NEEDS OF RESERVES FOR**  
2   **HEALTH CARE BENEFITS.**

3       (a) GAO EVALUATION OF NEEDS OF RESERVE COMPO-  
4   NENTS FOR HEALTH CARE BENEFITS.—The Comptroller Gen-  
5   eral shall evaluate the needs of members of the reserve compo-  
6   nents of the Armed Forces and their families for obtaining and  
7   maintaining coverage for health care benefits under health care  
8   benefits plans and programs.

9       (b) SPECIAL CONCERN.—In conducting the evaluation  
10   under this section, the Comptroller General shall give special  
11   consideration to the implications of the increased use of the re-  
12   serve components for carrying out and supporting operations of  
13   the Armed Forces that has been experienced since the 1980s  
14   and is anticipated to continue, particularly the increased fre-  
15   quency and magnitude of the mobilization of Reserves and the  
16   increased length of the periods of active duty of Reserves when  
17   mobilized.

18       (c) MATTERS COVERED.—The evaluation under this sec-  
19   tion shall include the following matters:

20           (1) An examination of the extent to which Reserves  
21           and the members of their families are covered by health  
22           care benefits plans when the Reserves are not on active  
23           duty, including—

24                   (A) the sources of the coverage;

25                   (B) the scope of the benefits; and

26                   (C) the extent to which the Reserves and the members  
27           of their families use the benefits available.

28           (2) An identification of options for providing health  
29           care benefits to Reserves and the members of their families  
30           not covered by health care benefits plans without creating  
31           an incentive for other Reserves to terminate coverage by  
32           such plans.

33           (3) A review of Department of Defense initiatives dur-  
34           ing fiscal years 2003 and 2004 to address the problems of  
35           access of mobilized Reserves and their families to health  
36           care and health care benefits, including—



1 (A) a determination of the effectiveness of such  
2 initiatives; and

3 (B) a determination of the extent to which the  
4 problems continue.

5 (4) An identification of options for continuing, after a  
6 Reserve is mobilized, any coverage of the Reserve and the  
7 Reserve's family that exists under a health benefits plan  
8 before the Reserve is mobilized.

9 (5) An assessment of the effects of—

10 (A) the provisions of this title that authorize or re-  
11 quire the Department of Defense to provide assistance  
12 specifically to Reserves to facilitate the access to and  
13 use of TRICARE benefits by Reserves or members of  
14 their families; and

15 (B) the provisions of this title that provide eligi-  
16 bility for health care under chapter 55 of title 10,  
17 United States Code, for Reserves who are alerted by  
18 the Department of Defense to prepare to be mobilized  
19 imminently.

20 (6) An examination of the existing programs under  
21 which the Department of Defense provides health care ben-  
22 efits to mobilized Reserves during a transitional period im-  
23 mediately following the release of the Reserves from the ac-  
24 tive duty for which mobilized, including an assessment of  
25 the extent to which those programs meet the needs of such  
26 Reserves for health care benefits on a transitional basis.

27 (d) REPORT.—Not later than May 1, 2004, the Comp-  
28 troller General shall submit to the Committees on Armed Serv-  
29 ices of the Senate and the House of Representatives a report  
30 on the results of the evaluation required by this subsection, in-  
31 cluding findings and recommendations.

32 (e) DEFINITIONS.—In this section:

33 (1) The term “mobilized” means called or ordered to  
34 active duty for a period of more than 30 days (as defined  
35 in section 101(d)(2) of title 10, United States Code).

36 (2) The term “Reserves” means members of the re-  
37 serve components of the Armed Forces.



1   **SEC. 706. LIMITATION ON FISCAL YEAR 2004 OUTLAYS**  
2                   **FOR TEMPORARY RESERVE HEALTH CARE**  
3                   **PROGRAMS.**

4           (a) OUTLAY LIMITATION.—In the administration of the  
5 temporary Reserve health care programs, the Secretary of De-  
6 fense shall carry out those program so as to limit the total De-  
7 partment of Defense expenditures under those program during  
8 fiscal year 2004 to an amount not in excess \$400,000,000.

9           (b) CONTINUITY OF CARE.—In the administration of the  
10 temporary Reserve health care programs, the Secretary of De-  
11 fense shall carry out the implementation and termination of  
12 those programs so as to ensure the least amount of disruption  
13 to the continuity of care for persons provided care under those  
14 programs.

15           (c) TEMPORARY RESERVE HEALTH CARE PROGRAMS.—  
16 For purposes of this section, the term “temporary Reserve  
17 health care programs” means the following:

18               (1) The program under section 1076b of title 10,  
19 United States Code, as amended by section 702.

20               (2) The program under section 1074(d) of title 10,  
21 United States Code, as amended by section 703.

22               (3) The program under section 704.

23   **SEC. 707. TRICARE BENEFICIARY COUNSELING AND AS-**  
24                   **SISTANCE COORDINATORS FOR RESERVE**  
25                   **COMPONENT BENEFICIARIES.**

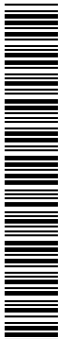
26           Section 1095e(a)(1) of title 10, United States Code, is  
27 amended—

28               (1) by striking “and” at the end of subparagraph (A);

29               (2) by redesignating subparagraph (B) as subpara-  
30 graph (C); and

31               (3) by inserting after subparagraph (A) the following  
32 new subparagraph (B):

33                   “(B) designate for each of the TRICARE program  
34 regions at least one person (other than a person des-  
35 ignated under subparagraph (A)) to serve full-time as  
36 a beneficiary counseling and assistance coordinator  
37 solely for members of the reserve components and their



1 dependents who are beneficiaries under the TRICARE  
2 program; and”.

3 **SEC. 708. ELIGIBILITY OF RESERVE OFFICERS FOR**  
4 **HEALTH CARE PENDING ORDERS TO ACTIVE**  
5 **DUTY FOLLOWING COMMISSIONING.**

6 Section 1074(a) of title 10, United States Code, is  
7 amended—

8 (1) by inserting “(1)” after “(a)”;

9 (2) by striking “who is on active duty” and inserting  
10 “described in paragraph (2)”; and

11 (3) by adding at the end the following new paragraph:

12 “(2) Members of the uniformed services referred to in  
13 paragraph (1) are as follows:

14 “(A) A member of a uniformed service on active duty.

15 “(B) A member of a reserve component of a uniformed  
16 service who has been commissioned as an officer if—

17 “(i) the member has requested orders to active  
18 duty for the member’s initial period of active duty fol-  
19 lowing the commissioning of the member as an officer;

20 “(ii) the request for orders has been approved;

21 “(iii) the orders are to be issued but have not been  
22 issued; and

23 “(iv) the member does not have health care insur-  
24 ance and is not covered by any other health benefits  
25 plan.”.

26 **Subtitle B—Other Benefits**  
27 **Improvements**

28 **SEC. 711. ACCELERATION OF IMPLEMENTATION OF**  
29 **CHIROPRACTIC HEALTH CARE FOR MEM-**  
30 **BERS ON ACTIVE DUTY.**

31 The Secretary of Defense shall accelerate the implementa-  
32 tion of the plan required by section 702 of the Floyd D. Spence  
33 National Defense Authorization Act for Fiscal Year 2001 (Pub-  
34 lic Law 106-398; 114 Stat. 1654A-173) (relating to chiro-  
35 practic health care services and benefits), with a goal of com-  
36 pleting implementation of the plan by October 1, 2005.



1   **SEC. 712. REIMBURSEMENT OF COVERED BENE-**  
2                   **FICIARIES FOR CERTAIN TRAVEL EXPENSES**  
3                   **RELATING TO SPECIALIZED DENTAL CARE.**

4           Section 1074i of title 10, United States Code, is  
5 amended—

6           (1) by inserting “(a) IN GENERAL.—” before “In any  
7 case”; and

8           (2) by adding at the end the following new subsection:

9           “(b) DEFINITIONS.—In this section:

10           “(1) The term ‘specialty care provider’ includes a den-  
11 tal specialist.

12           “(2) The term ‘dental specialist’ means an oral sur-  
13 geon, orthodontist, prosthodontist, periodontist,  
14 endodontist, or pediatric dentist, and includes such other  
15 providers of dental care and services as determined appro-  
16 priate by the Secretary of Defense.”.

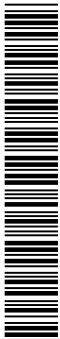
17   **SEC. 713. ELIGIBILITY FOR CONTINUED HEALTH BENE-**  
18                   **FITS COVERAGE EXTENDED TO CERTAIN**  
19                   **MEMBERS OF UNIFORMED SERVICES.**

20           (a) EXTENSION.—Section 1078a(b) of title 10, United  
21 States Code, is amended in paragraphs (1), (2)(A), and (3)(A)  
22 by striking “armed forces” and inserting “uniformed services”  
23 each place it appears.

24           (b) EFFECTIVE DATE.—The amendments made by sub-  
25 section (a) shall apply to members of the uniformed services  
26 who are not otherwise covered by section 1078a of title 10,  
27 United States Code, before the date of the enactment of this  
28 Act and who, on or after such date, first meet the eligibility  
29 criteria specified in subsection (b) of that section.

30   **SEC. 714. AUTHORITY FOR DESIGNATED PROVIDERS TO**  
31                   **ENROLL COVERED BENEFICIARIES WITH**  
32                   **OTHER PRIMARY HEALTH INSURANCE COV-**  
33                   **ERAGE.**

34           Subsection (d) of section 724 of the National Defense Au-  
35 thorization Act for Fiscal Year 1997 (Public Law 104-201; 10  
36 U.S.C. 1073 note) is amended to read as follows:



1 “(d) ADDITIONAL ENROLLMENT AUTHORITY.—(1) Sub-  
2 ject to paragraph (2), other covered beneficiaries may also re-  
3 ceive health care services from a designated provider.

4 “(2)(A) The designated provider may market such services  
5 to, and enroll, covered beneficiaries who—

6 “(i) subject to the limitation in subparagraph (B),  
7 have other primary health insurance coverage (other than  
8 Medicare coverage) covering basic primary care and inpa-  
9 tient and outpatient services; or

10 “(ii) are enrolled in the direct care system under the  
11 TRICARE program, regardless of whether the covered  
12 beneficiaries were users of the health care delivery system  
13 of the uniformed services in prior years.

14 “(B) For each fiscal year beginning after September 30,  
15 2003, the number of covered beneficiaries who are newly en-  
16 rolled by a designated provider pursuant to subparagraph  
17 (A)(i) may not exceed 10 percent of the excess (if any) of—

18 “(i) the number of enrollees in managed care plans of-  
19 fered by designated providers as of the first day of such fis-  
20 cal year; over

21 “(ii) the number of such enrollees as of the first day  
22 of the immediately preceding fiscal year.

23 “(3) For purposes of this subsection, a covered beneficiary  
24 who has other primary health insurance coverage includes any  
25 covered beneficiary who has primary health insurance  
26 coverage—

27 “(A) on the date of enrollment with a designated pro-  
28 vider pursuant to paragraph (2)(A)(i); or

29 “(B) on such date of enrollment and during the period  
30 after such date while the beneficiary is enrolled with the  
31 designated provider.”.



**Subtitle C—Planning, Programming,  
and Management**

**SEC. 721. PERMANENT EXTENSION OF AUTHORITY TO  
ENTER INTO PERSONAL SERVICES CON-  
TRACTS FOR THE PERFORMANCE OF  
HEALTH CARE RESPONSIBILITIES AT LOCA-  
TIONS OTHER THAN MILITARY MEDICAL  
TREATMENT FACILITIES.**

Section 1091(a)(2) of title 10, United States Code, is amended by striking “The Secretary may not enter into a contract under this paragraph after December 31, 2003.”.

**SEC. 722. DEPARTMENT OF DEFENSE MEDICARE-ELIGI-  
BLE RETIREE HEALTH CARE FUND VALU-  
ATIONS AND CONTRIBUTIONS.**

(a) SEPARATE PERIODIC ACTUARIAL VALUATION FOR SINGLE UNIFORMED SERVICE.—Section 1115(c) of title 10, United States Code, is amended by adding at the end of paragraph (1) the following: “The Secretary of Defense may determine a separate single level dollar amount under subparagraph (A) or (B) for any participating uniformed service, if, in the judgment of the Secretary, such a determination would produce a more accurate and appropriate actuarial valuation for that uniformed service.”.

(b) ASSOCIATED CALCULATIONS OF PAYMENTS INTO THE FUND.—Section 1116 of such title is amended—

(1) in subsection (a), by striking “the amount that” in the matter preceding paragraph (1) and inserting “the amount that, subject to subsection (b),”;

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(3) by inserting after subsection (a) the following new subsection (b):

“(b) If an actuarial valuation referred to in paragraph (1) or (2) of subsection (a) has been calculated as a separate single level dollar amount for a participating uniformed service under section 1115(c)(1) of this title, the administering Secretary for the department in which such uniformed service is operating shall calculate the amount under such paragraph separately for



1 such uniformed service. If the administering Secretary is not  
2 the Secretary of Defense, the administering Secretary shall no-  
3 tify the Secretary of Defense of the amount so calculated. To  
4 determine a single amount for the purpose of paragraph (1) or  
5 (2) of subsection (a), as the case may be, the Secretary of De-  
6 fense shall aggregate the amount calculated under this sub-  
7 section for a uniformed service for the purpose of such para-  
8 graph with the amount or amounts calculated (whether sepa-  
9 rately or otherwise) for the other uniformed services for the  
10 purpose of such paragraph.”.

11 (c) CONFORMING AMENDMENT.—Subsections (a) and  
12 (c)(5) of section 1115 of such title are amended by striking  
13 “section 1116(b) of this title” and inserting “section 1116(c)  
14 of this title”.

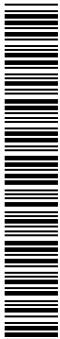
15 **SEC. 723. SURVEYS ON CONTINUED VIABILITY OF**  
16 **TRICARE STANDARD.**

17 (a) REQUIREMENT FOR SURVEYS.—(1) The Secretary of  
18 Defense shall conduct surveys in the TRICARE market areas  
19 in the United States to determine how many health care pro-  
20 viders are accepting new patients under TRICARE Standard in  
21 each such market area.

22 (2) The Secretary shall carry out the surveys in at least  
23 20 TRICARE market areas in the United States each fiscal  
24 year after fiscal year 2003 until all such market areas in the  
25 United States have been surveyed. The Secretary shall complete  
26 six of the fiscal year 2004 surveys not later than March 31,  
27 2004.

28 (3) In prioritizing the market areas for the sequence in  
29 which market areas are to be surveyed under this subsection,  
30 the Secretary shall consult with representatives of TRICARE  
31 beneficiaries and health care providers to identify locations  
32 where TRICARE Standard beneficiaries are experiencing sig-  
33 nificant levels of access-to-care problems under TRICARE  
34 Standard and shall give a high priority to surveying health care  
35 providers in such areas.

36 (b) SUPERVISION.—(1) The Secretary shall designate a  
37 senior official of the Department of Defense to take the actions





1 necessary for achieving and maintaining participation of health  
2 care providers in TRICARE Standard in each TRICARE mar-  
3 ket area in a number that is adequate to ensure the viability  
4 of TRICARE Standard for TRICARE beneficiaries in that  
5 market area.

6 (2) The official designated under paragraph (1) shall have  
7 the following duties:

8 (A) To educate health care providers about TRICARE  
9 Standard.

10 (B) To encourage health care providers to accept pa-  
11 tients under TRICARE Standard.

12 (C) To ensure that TRICARE beneficiaries have the  
13 information necessary to locate TRICARE Standard pro-  
14 viders readily.

15 (D) To recommend adjustments in TRICARE Stand-  
16 ard provider payment rates that the official considers nec-  
17 essary to ensure adequate availability of TRICARE Stand-  
18 ard providers for TRICARE Standard beneficiaries.

19 (c) GAO REVIEW.—(1) The Comptroller General shall, on  
20 an ongoing basis, review—

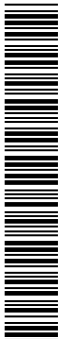
21 (A) the processes, procedures, and analysis used by  
22 the Department of Defense to determine the adequacy of  
23 the number of health care providers—

24 (i) that currently accept TRICARE Standard  
25 beneficiaries as patients under TRICARE Standard in  
26 each TRICARE market area (as of the date of comple-  
27 tion of the review); and

28 (ii) that would accept TRICARE Standard bene-  
29 ficiaries as new patients under TRICARE Standard in  
30 each TRICARE market area (within a reasonable time  
31 after the date of completion of the review); and

32 (B) the actions taken by the Department of Defense  
33 to ensure ready access of TRICARE Standard beneficiaries  
34 to health care under TRICARE Standard in each  
35 TRICARE market area.

36 (2)(A) The Comptroller General shall submit to the Com-  
37 mittees on Armed Services of the Senate and the House of



1 Representatives a semiannual report on the results of the re-  
2 view under paragraph (1). The first semiannual report shall be  
3 submitted not later than June 30, 2004.

4 (B) The semiannual report under subparagraph (A) shall  
5 include the following:

6 (i) An analysis of the adequacy of the surveys under  
7 subsection (a).

8 (ii) The adequacy of existing statutory authority to ad-  
9 dress inadequate levels of participation by health care pro-  
10 viders in TRICARE Standard.

11 (iii) Identification of policy-based obstacles to achiev-  
12 ing adequacy of availability of TRICARE Standard health  
13 care in the TRICARE market areas.

14 (iv) An assessment of the adequacy of Department of  
15 Defense education programs to inform health care pro-  
16 viders about TRICARE Standard.

17 (v) An assessment of the adequacy of Department of  
18 Defense initiatives to encourage health care providers to ac-  
19 cept patients under TRICARE Standard.

20 (vi) An assessment of the adequacy of information  
21 available to TRICARE Standard beneficiaries to facilitate  
22 access by such beneficiaries to health care under TRICARE  
23 Standard.

24 (vii) Any need for adjustment of health care provider  
25 payment rates to attract participation in TRICARE Stand-  
26 ard by appropriate numbers of health care providers.

27 (d) DEFINITIONS.—In this section:

28 (1) The term “TRICARE Standard” means the option  
29 of the TRICARE program that is also known as the Civil-  
30 ian Health and Medical Program of the Uniformed Serv-  
31 ices, as defined in section 1072(4) of title 10, United  
32 States Code.

33 (2) The term “United States” means the United  
34 States (as defined in section 101(a) of title 10, United  
35 States Code), its possessions (as defined in such section),  
36 and the Commonwealth of Puerto Rico.



**SEC. 724. PLAN FOR PROVIDING HEALTH COVERAGE INFORMATION TO MEMBERS, FORMER MEMBERS, AND DEPENDENTS ELIGIBLE FOR CERTAIN HEALTH BENEFITS.**

(a) HEALTH INFORMATION PLAN REQUIRED.—The Secretary of Defense shall develop a plan to—

(1) ensure that each household that includes one or more eligible persons is provided information concerning—

(A) the extent of health coverage provided by sections 1079 or 1086 of title 10, United States Code, for each such person;

(B) the costs, including the limits on such costs, that each such person is required to pay for such health coverage;

(C) sources of information for locating TRICARE-authorized providers in the household's locality; and

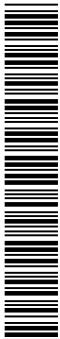
(D) methods to obtain assistance in resolving difficulties encountered with billing, payments, eligibility, locating TRICARE-authorized providers, collection actions, and such other issues as the Secretary considers appropriate;

(2) provide mechanisms to ensure that each eligible person has access to information identifying TRICARE-authorized providers in the person's locality who have agreed to accept new patients under section 1079 or 1086 of title 10, United States Code, and to ensure that such information is periodically updated;

(3) provide mechanisms to ensure that each eligible person who requests assistance in locating a TRICARE-authorized provider is provided such assistance;

(4) provide information and recruitment materials and programs aimed at attracting participation of health care providers as necessary to meet health care access requirements for all eligible persons; and

(5) provide mechanisms to allow for the periodic identification by the Department of Defense of the number and



1 locality of eligible persons who may intend to rely on  
2 TRICARE-authorized providers for health care services.

3 (b) IMPLEMENTATION OF PLAN.—The Secretary of De-  
4 fense shall implement the plan required by subsection (a) with  
5 respect to any contract entered into by the Department of De-  
6 fense after May 31, 2003, for managed health care.

7 (c) DEFINITIONS.—In this section:

8 (1) The term “eligible person” means a person eligible  
9 for health benefits under section 1079 or 1086 of title 10,  
10 United States Code.

11 (2) The term “TRICARE-authorized provider” means  
12 a facility, doctor, or other provider of health care services—

13 (A) that meets the licensing and credentialing cer-  
14 tification requirements in the State where the services  
15 are rendered;

16 (B) that meets requirements under regulations re-  
17 lating to TRICARE for the type of health care services  
18 rendered; and

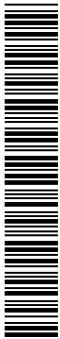
19 (C) that has accepted reimbursement by the Sec-  
20 retary of Defense as payment for services rendered dur-  
21 ing the 12-month period preceding the date of the most  
22 recently updated provider information provided to  
23 households under the plan required by subsection (a).

24 (d) SUBMISSION OF PLAN.—Not later than March 31,  
25 2004, the Secretary shall submit to the Committees on Armed  
26 Services of the Senate and House of Representatives the plan  
27 required by subsection (a), together with a schedule for imple-  
28 mentation of the plan.

29 **SEC. 725. TRANSFER OF CERTAIN MEMBERS OF THE**  
30 **PHARMACY AND THERAPEUTICS COM-**  
31 **MITTEE TO THE UNIFORM FORMULARY BEN-**  
32 **EFICIARY ADVISORY PANEL UNDER THE**  
33 **PHARMACY BENEFITS PROGRAM.**

34 Section 1074g of title 10, United States Code, is  
35 amended—

36 (1) in subsection (b)(1) in the second sentence, by  
37 striking “facilities,” and all that follows through the end of



the sentence and inserting “facilities and representatives of providers in facilities of the uniformed services.”; and

(2) in subsection (c)(2)—

(A) by striking “represent nongovernmental” and inserting the following: “represent—

“(A) nongovernmental”;

(B) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

“(B) contractors responsible for the TRICARE retail pharmacy program;

“(C) contractors responsible for the national mail-order pharmacy program; and

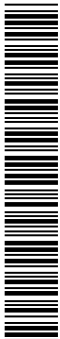
“(D) TRICARE network providers.”.

**SEC. 726. WORKING GROUP ON MILITARY HEALTH CARE FOR PERSONS RELIANT ON HEALTH CARE FACILITIES AT MILITARY INSTALLATIONS TO BE CLOSED OR REALIGNED.**

(a) IN GENERAL.—Section 722 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 10 U.S.C. 1073 note) is amended by striking subsections (a), (b), (c), and (d) and inserting the following new subsections:

“(a) ESTABLISHMENT.—Not later than December 31, 2003, the Secretary of Defense shall establish a working group on the provision of military health care to persons who rely for health care on health care facilities located at military installations—

“(1) inside the United States that are selected for closure or realignment in the 2005 round of realignments and closures authorized by sections 2912, 2913, and 2914 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), as added by title XXX of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 155 Stat. 1342); or



1 “(2) outside the United States that are selected for  
2 closure or realignment as a result of force posture changes.

3 “(b) MEMBERSHIP.—The members of the working group  
4 shall include, at a minimum, the following:

5 “(1) The Assistant Secretary of Defense for Health  
6 Affairs, or a designee of the Assistant Secretary.

7 “(2) The Surgeon General of the Army, or a designee  
8 of that Surgeon General.

9 “(3) The Surgeon General of the Navy, or a designee  
10 of that Surgeon General.

11 “(4) The Surgeon General of the Air Force, or a des-  
12 ignee of that Surgeon General.

13 “(5) At least one independent member (appointed by  
14 the Secretary of Defense) from each TRICARE region, but  
15 not to exceed a total of 12 members appointed under this  
16 paragraph, whose experience in matters within the respon-  
17 sibility of the working group qualify that person to rep-  
18 resent persons authorized health care under chapter 55 of  
19 title 10, United States Code.

20 “(c) DUTIES.—(1) In developing the recommendations for  
21 the 2005 round of realignments and closures required by sec-  
22 tions 2913 and 2914 of the Defense Base Closure and Realign-  
23 ment Act of 1990, the Secretary of Defense shall consult with  
24 the working group.

25 “(2) The working group shall be available to provide as-  
26 sistance to the Defense Base Closure and Realignment Com-  
27 mission.

28 “(3) In the case of each military installation referred to  
29 in paragraph (1) or (2) of subsection (a) whose closure or re-  
30 alignment will affect the accessibility to health care services for  
31 persons entitled to such services under chapter 55 of title 10,  
32 United States Code, the working group shall provide to the  
33 Secretary of Defense a plan for the provision of the health care  
34 services to such persons.

35 “(d) SPECIAL CONSIDERATIONS.—In carrying out its du-  
36 ties under subsection (c), the working group—



1 “(1) shall conduct meetings with persons entitled to  
2 health care services under chapter 55 of title 10, United  
3 States Code, or representatives of such persons;

4 “(2) may use reliable sampling techniques;

5 “(3) may visit the areas where closures or realign-  
6 ments of military installations will adversely affect the ac-  
7 cessibility of health care for such persons and may conduct  
8 public meetings; and

9 “(4) shall ensure that members of the uniformed serv-  
10 ices on active duty, members and former members of the  
11 uniformed services entitled to retired or retainer pay, and  
12 dependents and survivors of such members and retired per-  
13 sonnel are afforded the opportunity to express their  
14 views.”.

15 (b) TERMINATION.—Section 722 of such Act is further  
16 amended by adding at the end the following new subsection:

17 “(f) TERMINATION.—The working group established pur-  
18 suant to subsection (a) shall terminate on December 31,  
19 2006.”.

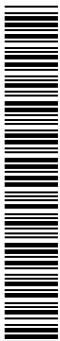
20 (c) CONFORMING AMENDMENT.—Subsection (e) of such  
21 section is amended by striking “joint services”.

22 **SEC. 727. JOINT PROGRAM FOR DEVELOPMENT AND**  
23 **EVALUATION OF INTEGRATED HEALING**  
24 **CARE PRACTICES FOR MEMBERS OF THE**  
25 **ARMED FORCES AND VETERANS.**

26 (a) PROGRAM.—The Secretary of Defense and the Sec-  
27 retary of Veterans Affairs may conduct a program to develop  
28 and evaluate integrated healing care practices for members of  
29 the Armed Forces and veterans. Any such program shall be  
30 carried out through the Department of Veterans Affairs-De-  
31 partment of Defense Joint Executive Committee established  
32 under section 320 of title 38, United States Code.

33 (b) SOURCE OF DOD FUNDS.—Amounts authorized to be  
34 appropriated by this Act for the Defense Health Program may  
35 be used for the program under subsection (a).







1 **TITLE VIII—ACQUISITION POLICY,**  
2 **ACQUISITION MANAGEMENT, AND**  
3 **RELATED MATTERS**

**Subtitle A—Acquisition Policy and Management**

- Sec. 801. Consolidation of contract requirements.  
Sec. 802. Quality control in procurement of aviation critical safety items and related services.  
Sec. 803. Federal support for enhancement of State and local anti-terrorism response capabilities.  
Sec. 804. Special temporary contract closeout authority.  
Sec. 805. Competitive award of contracts for reconstruction activities in Iraq.

**Subtitle B—United States Defense Industrial Base Provisions**

**PART I—ESSENTIAL ITEMS IDENTIFICATION AND DOMESTIC PRODUCTION CAPABILITIES IMPROVEMENT PROGRAM**

- Sec. 811. Consistency with United States obligations under international agreements.  
Sec. 812. Assessment of United States defense industrial base capabilities.  
Sec. 813. Identification of essential items: military system breakout list.  
Sec. 814. Production capabilities improvement for certain essential items using defense industrial base capabilities fund.

**PART II—REQUIREMENTS RELATING TO SPECIFIC ITEMS**

- Sec. 821. Elimination of unreliable sources of defense items and components.  
Sec. 822. Incentive program for major defense acquisition programs to use machine tools and other capital assets produced within the United States.  
Sec. 823. Technical assistance relating to machine tools.  
Sec. 824. Study of beryllium industrial base.

**PART III—OTHER DOMESTIC SOURCE REQUIREMENTS**

- Sec. 826. Exceptions to Berry amendment for contingency operations and other urgent situations.  
Sec. 827. Inapplicability of Berry amendment to procurements of waste and byproducts of cotton and wool fiber for use in the production of propellants and explosives.  
Sec. 828. Buy American exception for ball bearings and roller bearings used in foreign products.

**Subtitle C—Defense Acquisition and Support Workforce Flexibility**

- Sec. 831. Management structure.  
Sec. 832. Elimination of role of Office of Personnel Management.  
Sec. 833. Single acquisition corps.  
Sec. 834. Consolidation of certain education and training program requirements.  
Sec. 835. General management provisions.  
Sec. 836. Clerical amendments.



**Subtitle D—Amendments to General Contracting  
Authorities, Procedures, and Limitations**

- Sec. 841. Additional authority to enter into personal services contracts.  
Sec. 842. Elimination of certain subcontract notification requirements.  
Sec. 843. Multiyear task and delivery order contracts.  
Sec. 844. Elimination of requirement to furnish written assurances of technical data conformity.  
Sec. 845. Access to information relevant to items deployed under rapid acquisition and deployment procedures.  
Sec. 846. Applicability of requirement for reports on maturity of technology at initiation of major defense acquisition programs.  
Sec. 847. Certain weapons-related prototype projects.  
Sec. 848. Limited acquisition authority for commander of United States Joint Forces Command.

**Subtitle E—Acquisition-Related Reports and Other Matters**

- Sec. 851. Report on contract payments to small businesses.  
Sec. 852. Contracting with employers of persons with disabilities.  
Sec. 853. Demonstration project for contractors employing persons with disabilities.

**Subtitle A—Acquisition Policy and  
Management**

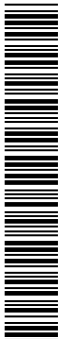
**SEC. 801. CONSOLIDATION OF CONTRACT REQUIREMENTS.**

(a) AMENDMENT TO TITLE 10.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2381 the following new section:

**“§ 2382. Consolidation of contract requirements:  
policy and restrictions**

“(a) POLICY.—The Secretary of Defense shall require the Secretary of each military department, the head of each Defense Agency, and the head of each Department of Defense Field Activity to ensure that the decisions made by that official regarding consolidation of contract requirements of the department, agency, or field activity, as the case may be, are made with a view to providing small business concerns with appropriate opportunities to participate in Department of Defense procurements as prime contractors and appropriate opportunities to participate in such procurements as subcontractors.

“(b) LIMITATION ON USE OF ACQUISITION STRATEGIES INVOLVING CONSOLIDATION.—(1) An official of a military department, Defense Agency, or Department of Defense Field Activity may not execute an acquisition strategy that includes a



1 consolidation of contract requirements of the military depart-  
2 ment, agency, or activity with a total value in excess of  
3 \$5,000,000, unless the senior procurement executive concerned  
4 first—

5 “(A) conducts market research;

6 “(B) identifies any alternative contracting approaches  
7 that would involve a lesser degree of consolidation of con-  
8 tract requirements; and

9 “(C) determines that the consolidation is necessary  
10 and justified.

11 “(2) A senior procurement executive may determine that  
12 an acquisition strategy involving a consolidation of contract re-  
13 quirements is necessary and justified for the purposes of para-  
14 graph (1) if the benefits of the acquisition strategy substan-  
15 tially exceed the benefits of each of the possible alternative con-  
16 tracting approaches identified under subparagraph (B) of that  
17 paragraph. However, savings in administrative or personnel  
18 costs alone do not constitute, for such purposes, a sufficient  
19 justification for a consolidation of contract requirements in a  
20 procurement unless the total amount of the cost savings is ex-  
21 pected to be substantial in relation to the total cost of the pro-  
22 curement.

23 “(3) Benefits considered for the purposes of paragraphs  
24 (1) and (2) may include cost and, regardless of whether quan-  
25 tifiable in dollar amounts—

26 “(A) quality;

27 “(B) acquisition cycle;

28 “(C) terms and conditions; and

29 “(D) any other benefit.

30 “(c) DEFINITIONS.—In this section:

31 “(1) The terms ‘consolidation of contract require-  
32 ments’ and ‘consolidation’, with respect to contract require-  
33 ments of a military department, Defense Agency, or De-  
34 partment of Defense Field Activity, mean a use of a solici-  
35 tation to obtain offers for a single contract or a multiple  
36 award contract to satisfy two or more requirements of that  
37 department, agency, or activity for goods or services that



1 have previously been provided to, or performed for, that de-  
2 partment, agency, or activity under two or more separate  
3 contracts smaller in cost than the total cost of the contract  
4 for which the offers are solicited.

5 “(2) The term ‘multiple award contract’ means—

6 “(A) a contract that is entered into by the Admin-  
7 istrator of General Services under the multiple award  
8 schedule program referred to in section 2302(2)(C) of  
9 this title;

10 “(B) a multiple award task order contract or de-  
11 liverly order contract that is entered into under the au-  
12 thority of sections 2304a through 2304d of this title or  
13 sections 303H through 303K of the Federal Property  
14 and Administrative Services Act of 1949 (41 U.S.C.  
15 253h through 253k); and

16 “(C) any other indeterminate delivery, indetermi-  
17 nate quantity contract that is entered into by the head  
18 of a Federal agency with two or more sources pursuant  
19 to the same solicitation.

20 “(3) The term ‘senior procurement executive con-  
21 cerned’ means—

22 “(A) with respect to a military department, the of-  
23 ficial designated under section 16(3) of the Office of  
24 Federal Procurement Policy Act (41 U.S.C. 414(3)) as  
25 the senior procurement executive for the military de-  
26 partment; or

27 “(B) with respect to a Defense Agency or a De-  
28 partment of Defense Field Activity, the official so des-  
29 ignated for the Department of Defense.

30 “(4) The term ‘small business concern’ means a busi-  
31 ness concern that is determined by the Administrator of  
32 the Small Business Administration to be a small-business  
33 concern by application of the standards prescribed under  
34 section 3(a) of the Small Business Act (15 U.S.C.  
35 632(a)).”.



1           (2) The table of sections at the beginning of such chapter  
2 is amended by inserting after the item relating to section 2381  
3 the following new item:

“2382. Consolidation of contract requirements: policy and restrictions.”.

4           (b) DATA REVIEW.—(1) The Secretary of Defense shall  
5 revise the data collection systems of the Department of Defense  
6 to ensure that such systems are capable of identifying each pro-  
7 curement that involves a consolidation of contract requirements  
8 within the department with a total value in excess of  
9 \$5,000,000.

10           (2) The Secretary shall ensure that appropriate officials of  
11 the Department of Defense periodically review the information  
12 collected pursuant to paragraph (1) in cooperation with the  
13 Small Business Administration—

14           (A) to determine the extent of the consolidation of  
15 contract requirements in the Department of Defense; and

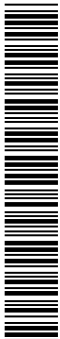
16           (B) to assess the impact of the consolidation of con-  
17 tract requirements on the availability of opportunities for  
18 small business concerns to participate in Department of  
19 Defense procurements, both as prime contractors and as  
20 subcontractors.

21           (3) In this subsection:

22           (A) The term “consolidation of contract requirements”  
23 has the meaning given that term in section 2382(c)(1) of  
24 title 10, United States Code, as added by subsection (a).

25           (B) The term “small business concern” means a busi-  
26 ness concern that is determined by the Administrator of  
27 the Small Business Administration to be a small-business  
28 concern by application of the standards prescribed under  
29 section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

30           (c) APPLICABILITY.—This section applies with respect to  
31 procurements for which solicitations are issued after the date  
32 occurring 180 days after the date of the enactment of this Act.



1   **SEC. 802. QUALITY CONTROL IN PROCUREMENT OF**  
2                   **AVIATION CRITICAL SAFETY ITEMS AND RE-**  
3                   **LATED SERVICES.**

4           (a) **QUALITY CONTROL POLICY.**—The Secretary of De-  
5   fense shall prescribe in regulations a quality control policy for  
6   the procurement of aviation critical safety items and the pro-  
7   curement of modifications, repair, and overhaul of such items.

8           (b) **CONTENT OF REGULATIONS.**—The policy set forth in  
9   the regulations shall include the following requirements:

10           (1) That the head of the design control activity for  
11   aviation critical safety items establish processes to identify  
12   and manage the procurement, modification, repair, and  
13   overhaul of aviation critical safety items.

14           (2) That the head of the contracting activity for an  
15   aviation critical safety item enter into a contract for the  
16   procurement, modification, repair, or overhaul of such item  
17   only with a source approved by the design control activity  
18   in accordance with section 2319 of title 10, United States  
19   Code.

20           (3) That the aviation critical safety items delivered,  
21   and the services performed with respect to aviation critical  
22   safety items, meet all technical and quality requirements  
23   specified by the design control activity.

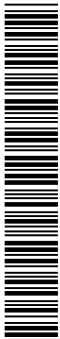
24           (c) **DEFINITIONS.**—In this section, the terms “aviation  
25   critical safety item” and “design control activity” have the  
26   meanings given such terms in section 2319(g) of title 10,  
27   United States Code, as amended by subsection (d).

28           (d) **CONFORMING AMENDMENT TO TITLE 10.**—Section  
29   2319 of title 10, United States Code, is amended—

30           (1) in subsection (c)(3), by inserting after “the con-  
31   tracting officer” the following: “(or, in the case of a con-  
32   tract for the procurement of an aviation critical safety  
33   item, the head of the design control activity for such  
34   item)”; and

35           (2) by adding at the end the following new subsection:

36           “(g) **DEFINITIONS.**—In this section:



1           “(1) The term ‘aviation critical safety item’ means a  
2           part, an assembly, installation equipment, launch equip-  
3           ment, recovery equipment, or support equipment for an air-  
4           craft or aviation weapon system if the part, assembly, or  
5           equipment contains a characteristic any failure, malfunc-  
6           tion, or absence of which could cause a catastrophic or crit-  
7           ical failure resulting in the loss of or serious damage to the  
8           aircraft or weapon system, an unacceptable risk of personal  
9           injury or loss of life, or an uncommanded engine shutdown  
10          that jeopardizes safety.

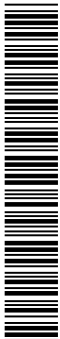
11          “(2) The term ‘design control activity’, with respect to  
12          an aviation critical safety item, means the systems com-  
13          mand of a military department that is specifically respon-  
14          sible for ensuring the airworthiness of an aviation system  
15          or equipment in which the item is to be used.”.

16       **SEC. 803. FEDERAL SUPPORT FOR ENHANCEMENT OF**  
17               **STATE AND LOCAL ANTI-TERRORISM RE-**  
18               **SPONSE CAPABILITIES.**

19          (a) PROCUREMENTS OF ANTI-TERRORISM TECHNOLOGIES  
20          AND SERVICES BY STATE AND LOCAL GOVERNMENTS.—The  
21          Administrator for Federal Procurement Policy shall establish a  
22          program under which States and units of local government may  
23          procure through contracts entered into by the Department of  
24          Defense or the Department of Homeland Security anti-ter-  
25          rorism technologies or anti-terrorism services for the purpose of  
26          preventing, detecting, identifying, deterring, or recovering from  
27          acts of terrorism.

28          (b) AUTHORITIES.—Under the program, the Secretary of  
29          Defense and the Secretary of Homeland Security may, but  
30          shall not be required to, award contracts using the procedures  
31          established by the Administrator of General Services for the  
32          multiple awards schedule program of the General Services Ad-  
33          ministration.

34          (c) DEFINITION.—In this section, the term “State or local  
35          government” has the meaning provided in section 502(c)(3) of  
36          title 40, United States Code.



1   **SEC. 804. SPECIAL TEMPORARY CONTRACT CLOSEOUT**  
2       **AUTHORITY.**

3       (a) **AUTHORITY.**—The Secretary of Defense may settle  
4   any financial account for a contract entered into by the Sec-  
5   retary or the Secretary of a military department before October  
6   1, 1996, that is administratively complete if the financial ac-  
7   count has an unreconciled balance, either positive or negative,  
8   that is less than \$100,000.

9       (b) **FINALITY OF DECISION.**—A settlement under this sec-  
10   tion shall be final and conclusive upon the accounting officers  
11   of the United States.

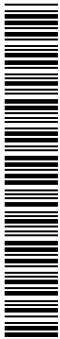
12       (c) **REGULATIONS.**—The Secretary of Defense shall pre-  
13   scribe regulations for the administration of the authority under  
14   this section.

15       (d) **TERMINATION OF AUTHORITY.**—A financial account  
16   may not be settled under this section after September 30,  
17   2006.

18   **SEC. 805. COMPETITIVE AWARD OF CONTRACTS FOR RE-**  
19       **CONSTRUCTION ACTIVITIES IN IRAQ.**

20       (a) **COMPETITIVE AWARD OF CONTRACTS.**—The Depart-  
21   ment of Defense shall fully comply with chapter 137 of title 10,  
22   United States Code, and other applicable procurement laws and  
23   regulations for any contract awarded for reconstruction activi-  
24   ties in Iraq, and shall conduct a full and open competition for  
25   performing work needed for the reconstruction of the Iraqi oil  
26   industry.

27       (b) **REPORT.**—If the Department of Defense does not have  
28   a fully competitive contract in place to replace the March 8,  
29   2003, contract for the reconstruction of the Iraqi oil industry  
30   on the date of the enactment of this Act, the Secretary of De-  
31   fense shall submit to Congress, not later than 30 days after  
32   such date of enactment, a report detailing the reasons for al-  
33   lowing the March 8, 2003, contract to continue.





## **Subtitle B—United States Defense Industrial Base Provisions**

### **Part I—Essential Items Identification and Domestic Production Capabilities Improvement Program**

#### **SEC. 811. CONSISTENCY WITH UNITED STATES OBLIGA- TIONS UNDER INTERNATIONAL AGREE- MENTS.**

No provision of this subtitle or any amendment made by this subtitle shall apply to the extent the Secretary of Defense, in consultation with the Secretary of Commerce, the United States Trade Representative, and the Secretary of State, determines that it is inconsistent with United States obligations under an international agreement.

#### **SEC. 812. ASSESSMENT OF UNITED STATES DEFENSE IN- DUSTRIAL BASE CAPABILITIES.**

(a) ASSESSMENT PROGRAM.—(1) The Secretary of Defense shall establish a program to assess—

(A) the degree to which the United States is dependent on foreign sources of supply; and

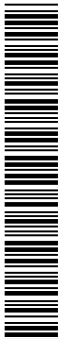
(B) the capabilities of the United States defense industrial base to produce military systems necessary to support the national security objectives set forth in section 2501 of title 10, United States Code.

(2) For purposes of the assessment program, the Secretary shall use existing data, as required under subsection (b), and submit an annual report, as required under subsection (c).

(b) USE OF EXISTING DATA.—(1) At a minimum, with respect to each prime contract with a value greater than \$25,000 for the procurement of defense items and components, the following information from existing sources shall be used for purposes of the assessment program:

(A) Whether the contractor is a United States or foreign contractor.

(B) The principal place of business of the contractor and the principal place of performance of the contract.



1 (C) Whether the contract was awarded on a sole  
2 source basis or after receipt of competitive offers.

3 (D) The dollar value of the contract.

4 (2) The Federal Procurement Data System described in  
5 section 6(d)(4)(A) of the Office of Federal Procurement Policy  
6 Act (41 U.S.C. 405(d)(4)(A)), or any successor system, shall  
7 collect from contracts described in paragraph (1) the informa-  
8 tion specified in that paragraph.

9 (3) Information obtained in the implementation of this  
10 section is subject to the same limitations on disclosure, and  
11 penalties for violation of such limitations, as is provided under  
12 section 2507 of title 10, United States Code. Such information  
13 also shall be exempt from release under section 552 of title 5,  
14 United States Code.

15 (4) For purposes of meeting the requirements set forth in  
16 this section, the Secretary of Defense may not require the pro-  
17 vision of information beyond the information that is currently  
18 provided to the Department of Defense through existing data  
19 collection systems by non-Federal entities with respect to con-  
20 tracts and subcontracts with the Department of Defense or any  
21 military department.

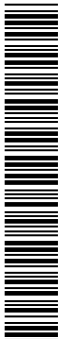
22 (c) ANNUAL REPORT.—(1) Not later than February 1 of  
23 each year, the Secretary of Defense shall submit to the Com-  
24 mittees on Armed Services of the Senate and the House of  
25 Representatives a report on the assessment program covering  
26 the preceding fiscal year. The first report under this subsection  
27 shall cover fiscal year 2004 and shall be submitted to the Com-  
28 mittees no later than February 1, 2005.

29 (2)(A) The report shall include the following with respect  
30 to contracts described in subsection (b):

31 (i) The total number and value of such contracts  
32 awarded by the Department of Defense.

33 (ii) The total number and value of such contracts  
34 awarded on a sole source basis.

35 (iii) The total number and value of contracts described  
36 in clause (ii) awarded to foreign contractors, summarized  
37 by country.



(iv) The total number and value of contracts awarded to foreign contractors through competitive procedures, summarized by country.

(B) The report also shall include—

(i) the status of the matters described in subparagraphs (A) and (B) of subsection (a)(1);

(ii) the status of implementation of successor procurement data management systems; and

(iii) such other matters as the Secretary considers appropriate.

**SEC. 813. IDENTIFICATION OF ESSENTIAL ITEMS: MILITARY SYSTEM BREAKOUT LIST.**

(a) IDENTIFICATION PROCESS.—(1) The Secretary of Defense shall establish a process, using the Defense Logistics Information System existing database, to identify, with respect to each military system—

(A) the essential items, assemblies, and components of the system that are active items, assemblies, and components;

(B) foreign and domestic sources of supply for active items, assemblies, and components of the system;

(C) the active items, assemblies, and components of the system that are commercial; and

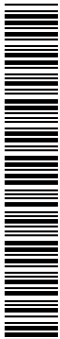
(D) Federal Supply Class and North American Industry Classification System Codes for active items, assemblies, and components of the system.

(2) Any modification to the logistics management system or any successor system of the Department of Defense shall maintain the capability to identify—

(A) essential items, assemblies, and components described in paragraph (1)(A);

(B) foreign and domestic sources of supply for active items, assemblies, and components;

(C) the active items, assemblies, and components of the system that are commercial; and



1 (D) Federal Supply Class and North American Indus-  
2 try Classification System Codes for active items, assem-  
3 blies, and components.

4 (3) For purposes of meeting the requirements set forth in  
5 this section, the Secretary of Defense may not require the pro-  
6 vision of information beyond the information that is currently  
7 provided to the Department of Defense through existing data  
8 collection systems by non-Federal entities with respect to con-  
9 tracts and subcontracts with the Department of Defense or any  
10 military department.

11 (b) MILITARY SYSTEM ESSENTIAL ITEM BREAKOUT  
12 LIST.—The Secretary of Defense shall produce a list, to be  
13 known as the “military system essential item breakout list”,  
14 consisting of the items, assemblies, and components identified  
15 under subsection (a)(1)(A). In producing the list, the Secretary  
16 of Defense shall consider the results of the report under sub-  
17 section (c).

18 (c) ASSESSMENT.—Not later than 18 months after the  
19 date of the enactment of this Act, the Secretary of Defense,  
20 acting through a federally funded research and development  
21 center, shall prepare a report that—

22 (1) assesses the criteria that should be used for identi-  
23 fying whether an item, assembly, or component is essential  
24 to a military system; and

25 (2) recommends which items, assemblies, and compo-  
26 nents should be included on the military system essential  
27 item breakout list under subsection (b).

28 (d) REPORT.—(1) Not later than November 1 of each  
29 year, beginning with November 1, 2005, the Secretary of De-  
30 fense shall submit to the Committees on Armed Services of the  
31 Senate and the House of Representatives a report on the imple-  
32 mentation of this section. The report may be submitted in clas-  
33 sified and unclassified form.

34 (2) The report shall include the following:

35 (A) A list of each military system covered by the proc-  
36 ess established under subsection (a).



(B) A list of the items, assemblies, and components on the military system essential item breakout list that are manufactured or produced outside the United States, setting forth military and commercial separately.

(C) The portion of the entire military system essential item breakout list that consists of the items, assemblies, and components listed under subparagraph (B) (stated as a percentage).

(D) A list of each Federal Supply Class and North American Industry Classification System Code represented on the military system essential item breakout list, and the portion of the entire military system essential item breakout list that consists of items, assemblies, or components in such classes or codes (stated as a percentage).

(E) A list of each country outside the United States where the items, assemblies, and components listed under subparagraph (B) are manufactured or produced, and the portion of the entire military system essential item breakout list that consists of—

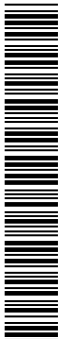
(i) the items, assemblies, or components manufactured or produced in that country, setting forth military and commercial separately (stated as a percentage); and

(ii) the Federal Supply Classes and North American Industry Classification System Codes represented by those items, assemblies, or components (stated as a percentage).

(3) The Secretary shall submit an interim version of the report required by this subsection not later than February 1, 2005, containing as much information as is practicable to be included by such date.

**SEC. 814. PRODUCTION CAPABILITIES IMPROVEMENT FOR CERTAIN ESSENTIAL ITEMS USING DEFENSE INDUSTRIAL BASE CAPABILITIES FUND.**

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a separate fund to be known



1 as the Defense Industrial Base Capabilities Fund (hereafter in  
2 this section referred to as the “Fund”).

3 (b) MONEYS IN FUND.—There shall be credited to the  
4 Fund amounts appropriated to it.

5 (c) USE OF FUND.—The Secretary of Defense is author-  
6 ized to use all amounts in the Fund, subject to appropriation,  
7 for the purposes of enhancing or reconstituting United States  
8 industrial capability to produce items on the military system es-  
9 sential item breakout list (as described in section 812(b)) or  
10 items subject to section 2534 of title 10, United States Code,  
11 in the quantity and of the quality necessary to achieve national  
12 security objectives.

13 (d) LIMITATION ON USE OF FUND.—Before the obligation  
14 of any amounts in the Fund, the Secretary of Defense shall  
15 submit to Congress a report describing the Secretary’s plans  
16 for implementing the Fund established in subsection (a), in-  
17 cluding the priorities for the obligation of amounts in the  
18 Fund, the criteria for determining the recipients of such  
19 amounts, and the mechanisms through which such amounts  
20 may be provided to the recipients.

21 (e) AVAILABILITY OF FUNDS.—Amounts in the Fund shall  
22 remain available until expended.

23 (f) FUND MANAGER.—The Secretary of Defense shall des-  
24 ignate a Fund manager. The duties of the Fund manager shall  
25 include—

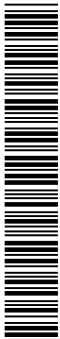
26 (1) ensuring the visibility and accountability of trans-  
27 actions engaged in through the Fund; and

28 (2) reporting to Congress each year regarding activi-  
29 ties of the Fund during the previous fiscal year.

## 30 **Part II—Requirements Relating to Specific Items**

### 31 **SEC. 821. ELIMINATION OF UNRELIABLE SOURCES OF** 32 **DEFENSE ITEMS AND COMPONENTS.**

33 (a) IDENTIFICATION OF CERTAIN COUNTRIES.—The Sec-  
34 retary of Defense, in coordination with the Secretary of State,  
35 shall identify and list foreign countries that restrict the provi-  
36 sion or sale of military goods or services to the United States  
37 because of United States counterterrorism or military oper-



1     ations after the date of the enactment of this Act. The Sec-  
2     retary shall review and update the list as appropriate. The Sec-  
3     retary may remove a country from the list, if the Secretary de-  
4     termines that doing so would be in the interest of national de-  
5     fense.

6           (b) PROHIBITION ON PROCUREMENT OF ITEMS FROM  
7     IDENTIFIED COUNTRIES.—The Secretary of Defense may not  
8     procure any items or components contained in military systems  
9     if the items or components, or the systems, are manufactured  
10    in any foreign country identified under subsection (a).

11          (c) WAIVER AUTHORITY.—The Secretary of Defense may  
12    waive the limitation in subsection (b) if the Secretary deter-  
13    mines in writing and notifies Congress that the Department of  
14    Defense’s need for the item is of such an unusual and compel-  
15    ling urgency that the Department would be unable to meet na-  
16    tional security objectives.

17          (d) EFFECTIVE DATE.—(1) Subject to paragraph (2), sub-  
18    section (b) applies to contracts in existence on the date of the  
19    enactment of this Act or entered into after such date.

20          (2) With respect to contracts in existence on the date of  
21    the enactment of this Act, the Secretary of Defense shall take  
22    such action as is necessary to ensure that such contracts are  
23    in compliance with subsection (b) not later than 24 months  
24    after such date.

25     **SEC. 822. INCENTIVE PROGRAM FOR MAJOR DEFENSE**  
26           **ACQUISITION PROGRAMS TO USE MACHINE**  
27           **TOOLS AND OTHER CAPITAL ASSETS PRO-**  
28           **DUCE WITHIN THE UNITED STATES.**

29          (a) IN GENERAL.—(1) Chapter 144 of title 10, United  
30    States Code, is amended by inserting after section 2435 the fol-  
31    lowing new section:

32     **“§ 2436. Major defense acquisition programs: in-**  
33           **centive program for contractors to pur-**  
34           **chase capital assets manufactured in**  
35           **United States**

36          “(a) ESTABLISHMENT OF INCENTIVE PROGRAM.—The  
37    Secretary of Defense shall plan and establish an incentive pro-



1     gram in accordance with this section for contractors to pur-  
2     chase capital assets manufactured in the United States in part  
3     with funds available to the Department of Defense.

4           “(b) DEFENSE INDUSTRIAL CAPABILITIES FUND MAY BE  
5     USED.—The Secretary of Defense may use the Defense Indus-  
6     trial Capabilities Fund, established under section 814 of the  
7     National Defense Authorization Act for Fiscal Year 2004, for  
8     incentive payments under the program established under this  
9     section.

10          “(c) APPLICABILITY TO MAJOR DEFENSE ACQUISITION  
11     PROGRAM CONTRACTS.—The incentive program shall apply to  
12     contracts for the procurement of a major defense acquisition  
13     program.

14          “(d) CONSIDERATION.—The Secretary of Defense shall  
15     provide consideration in source selection in any request for pro-  
16     posals for a major defense acquisition program for offerors  
17     with eligible capital assets.”.

18          (2) The table of sections at the beginning of such chapter  
19     is amended by inserting after the item relating to section 2435  
20     the following new item:

“2436. Major defense acquisition programs: incentive program for contrac-  
tors to purchase capital assets manufactured in United States.”.

21          (b) REGULATIONS.—(1) The Secretary of Defense shall  
22     prescribe regulations as necessary to carry out section 2436 of  
23     title 10, United States Code, as added by this section.

24          (2) The Secretary may prescribe interim regulations as  
25     necessary to carry out such section. For this purpose, the Sec-  
26     retary is excepted from compliance with the notice and com-  
27     ment requirements of section 553 of title 5, United States  
28     Code. All interim rules prescribed under the authority of this  
29     paragraph that are not earlier superseded by final rules shall  
30     expire no later than 270 days after the effective date of section  
31     2436 of title 10, United States Code, as added by this section.

32          (c) EFFECTIVE DATE.—Section 2436 of title 10, United  
33     States Code, as added by subsection (a), shall apply with re-  
34     spect to contracts entered into after the expiration of the 18-





1 month period beginning on the date of the enactment of this  
2 Act.

3 **SEC. 823. TECHNICAL ASSISTANCE RELATING TO MA-**  
4 **CHINE TOOLS.**

5 (a) TECHNICAL ASSISTANCE.—The Secretary of Defense  
6 shall publish in the Federal Register information on Govern-  
7 ment contracting for purposes of assisting machine tool compa-  
8 nies in the United States and entities that use machine tools.  
9 The information shall contain, at a minimum, the following:

10 (1) An identification of resources with respect to Gov-  
11 ernment contracting regulations, including compliance pro-  
12 cedures and information on the availability of counseling.

13 (2) An identification of resources for locating opportu-  
14 nities for contracting with the Department of Defense, in-  
15 cluding information about defense contracts that are ex-  
16 pected to be carried out that may require the use of ma-  
17 chine tools.

18 (b) SCIENCE AND TECHNOLOGY INITIATIVES.—The Sec-  
19 retary of Defense shall incorporate into the Department of De-  
20 fense science and technology initiatives on manufacturing tech-  
21 nology an objective of developing advanced machine tool capa-  
22 bilities. Such technologies shall be used to improve the techno-  
23 logical capabilities of the United States domestic machine tool  
24 industrial base in meeting national security objectives.

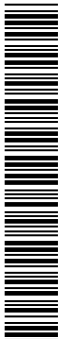
25 **SEC. 824. STUDY OF BERYLLIUM INDUSTRIAL BASE.**

26 (a) REQUIREMENT FOR STUDY.—The Secretary of De-  
27 fense shall conduct a study of the adequacy of the industrial  
28 base of the United States to meet defense requirements of the  
29 United States for beryllium.

30 (b) REPORT.—Not later than March 31, 2005, the Sec-  
31 retary shall submit a report on the results of the study to Con-  
32 gress. The report shall contain, at a minimum, the following in-  
33 formation:

34 (1) A discussion of the issues identified with respect  
35 to the long-term supply of beryllium.

36 (2) An assessment of the need, if any, for moderniza-  
37 tion of the primary sources of production of beryllium.



(3) A discussion of the advisability of, and concepts for, meeting the future defense requirements of the United States for beryllium and maintaining a stable domestic industrial base of sources of beryllium through—

(A) cooperative arrangements commonly referred to as public-private partnerships;

(B) the administration of the National Defense Stockpile under the Strategic and Critical Materials Stock Piling Act; and

(C) any other means that the Secretary identifies as feasible.

### **Part III—Other Domestic Source Requirements**

#### **SEC. 826. EXCEPTIONS TO BERRY AMENDMENT FOR CONTINGENCY OPERATIONS AND OTHER URGENT SITUATIONS.**

Section 2533a(d) of title 10, United States Code, is amended—

(1) by striking “OUTSIDE THE UNITED STATES” in the subsection heading;

(2) in paragraph (1), by inserting “or procurements of any item listed in subsection (b)(1)(A), (b)(2), or (b)(3) in support of contingency operations” after “in support of combat operations”; and

(3) by adding at the end the following new paragraph:

“(4) Procurements of any item listed in subsection (b)(1)(A), (b)(2), or (b)(3) for which the use of procedures other than competitive procedures has been approved on the basis of section 2304(c)(2) of this title, relating to unusual and compelling urgency of need.”.

#### **SEC. 827. INAPPLICABILITY OF BERRY AMENDMENT TO PROCUREMENTS OF WASTE AND BYPRODUCTS OF COTTON AND WOOL FIBER FOR USE IN THE PRODUCTION OF PROPELLANTS AND EXPLOSIVES.**

Section 2533a(f) of title 10, United States Code, is amended—

(1) by striking “(f) EXCEPTION” and all that follows through “the procurement of” and inserting the following:



1 “(f) EXCEPTIONS FOR CERTAIN OTHER COMMODITIES  
2 AND ITEMS.—Subsection (a) does not preclude the procurement  
3 of the following:

4 “(1)”;

5 (2) by capitalizing the initial letter of the word fol-  
6 lowing “(1)”, as added by paragraph (1); and

7 (3) by adding at the end the following new paragraph:

8 “(2) Waste and byproducts of cotton and wool fiber  
9 for use in the production of propellants and explosives.”.

10 **SEC. 828. BUY AMERICAN EXCEPTION FOR BALL BEAR-**  
11 **INGS AND ROLLER BEARINGS USED IN FOR-**  
12 **EIGN PRODUCTS.**

13 Section 2534(a)(5) of title 10, United States Code, is  
14 amended by inserting before the period at the end the fol-  
15 lowing: “, except ball bearings and roller bearings being pro-  
16 cured for use in an end product manufactured by a manufac-  
17 turer that does not satisfy the requirements of subsection (b)  
18 or in a component part manufactured by such a manufac-  
19 turer”.

20 **Subtitle C—Defense Acquisition and**  
21 **Support Workforce Flexibility**

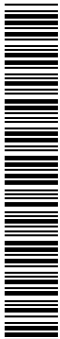
22 **SEC. 831. MANAGEMENT STRUCTURE.**

23 (a) REPEAL OF REQUIREMENTS FOR CERTAIN CAREER  
24 MANAGEMENT DIRECTORS, BOARDS, AND POLICIES.—Sections  
25 1703, 1705, 1706, and 1707 of title 10, United States Code,  
26 are repealed.

27 (b) CONFORMING AMENDMENTS.—Chapter 87 of such title  
28 is amended—

29 (1) in section 1724(d)—

30 (A) in the first sentence, by striking “The acquisi-  
31 tion career program board concerned” and all that fol-  
32 lows through “if the board certifies” and inserting “the  
33 Secretary of Defense may waive any or all of the re-  
34 quirements of subsections (a) and (b) with respect to  
35 an employee of the Department of Defense or member  
36 of the armed forces if the Secretary determines”;



(B) in the second sentence, by striking “the board” and inserting “the Secretary”; and

(C) by striking the third sentence;  
(2) in section 1732(b)—

(A) in paragraph (1)(C), by striking “, as validated by the appropriate career program management board”; and

(B) in paragraph (2)(A)(ii), by striking “has been certified by the acquisition career program board of the employing military department as possessing” and inserting “possess”;

(3) in section 1732(d)—

(A) in paragraph (1)—

(i) in the first sentence, by striking “the acquisition career program board of a military department” and all that follows through “if the board certifies” and inserting “The Secretary of Defense may waive any or all of the requirements of subsection (b) with respect to an employee if the Secretary determines”;

(ii) in the second sentence, by striking “the board” and inserting “the Secretary”; and

(iii) by striking the third sentence; and

(B) in paragraph (2), by striking “The acquisition career program board of a military department” and inserting “The Secretary”;

(4) in section 1734—

(A) in subsection (d)—

(i) by striking paragraph (2); and

(ii) by redesignating paragraph (3) as paragraph (2), and in that paragraph by striking the second sentence; and

(B) in subsection (e)(2), by striking “, by the acquisition career program board of the department concerned,”; and

(5) in section 1737(c)—

(A) by striking paragraph (2); and



1 (B) by striking “(1) The Secretary” and inserting  
2 “The Secretary”.

3 **SEC. 832. ELIMINATION OF ROLE OF OFFICE OF PER-**  
4 **SONNEL MANAGEMENT.**

5 (a) WORKFORCE QUALIFICATION REQUIREMENTS AND  
6 EXAMINATIONS.—Section 1725 of such title is repealed.

7 (b) ACQUISITION CORPS REQUIREMENTS.—Subchapter III  
8 of chapter 87 of title 10, United States Code, is amended—

9 (1) in section 1731, by striking subsection (c);

10 (2) in section 1732(c)(2), by striking the second and  
11 third sentences;

12 (3) in section 1734(g)—

13 (A) by striking paragraph (2); and

14 (B) in paragraph (1), by striking “(1) The Sec-  
15 retary” and inserting “The Secretary”; and

16 (4) in section 1737, by striking subsection (d).

17 (c) APPOINTMENT OF SCHOLARSHIP RECIPIENT IN COM-  
18 PETITIVE SERVICE.—Section 1744(c)(3)(A)(i) of such title is  
19 amended by striking “and such other requirements as the Of-  
20 fice of Personnel Management may prescribe”.

21 **SEC. 833. SINGLE ACQUISITION CORPS.**

22 Subchapter III of chapter 87 of title 10, United States  
23 Code, as amended by section 832, is further amended—

24 (1) in section 1731—

25 (A) in subsection (a)—

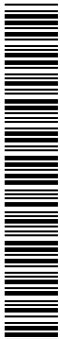
26 (i) by striking “each of the military depart-  
27 ments and one or more Corps, as he considers ap-  
28 propriate, for the other components of” in the first  
29 sentence; and

30 (ii) by striking the second sentence; and

31 (B) in subsection (b), by striking “an Acquisition  
32 Corps” and inserting “the Acquisition Corps”;

33 (2) in sections 1732(a), 1732(e)(1), 1732(e)(2),  
34 1733(a), 1734(e)(1), and 1737(a)(1), by striking “an Ac-  
35 quisition Corps” and inserting “the Acquisition Corps”;  
36 and

37 (3) in section 1734—



(A) in subsection (g), by striking “each Acquisition Corps, a test program in which members of a Corps” and inserting “the Acquisition Corps, a test program in which members of the Corps”; and

(B) in subsection (h), by striking “making assignments of civilian and military members of the Acquisition Corps of that military department” and inserting “making assignments of civilian and military personnel of that military department who are members of the Acquisition Corps”.

**SEC. 834. CONSOLIDATION OF CERTAIN EDUCATION AND TRAINING PROGRAM REQUIREMENTS.**

(a) CONSOLIDATION OF AUTHORITY.—Section 1742 of such title is amended to read as follows:

**“§ 1742. Internship, cooperative education, and scholarship programs**

“The Secretary of Defense shall conduct the following education and training programs:

“(1) An intern program for purposes of providing highly qualified and talented individuals an opportunity for accelerated promotions, career broadening assignments, and specified training to prepare them for entry into the Acquisition Corps.

“(2) A cooperative education credit program under which the Secretary arranges, through cooperative arrangements entered into with one or more accredited institutions of higher education, for such institutions to grant undergraduate credit for work performed by students who are employed by the Department of Defense in acquisition positions.

“(3) A scholarship program for the purpose of qualifying personnel for acquisition positions in the Department of Defense.”.

(b) CONFORMING AMENDMENTS.—Sections 1743 and 1744 of such title are repealed.



1   **SEC. 835. GENERAL MANAGEMENT PROVISIONS.**

2       Subchapter V of chapter 87 of title 10, United States  
3   Code, is amended—

4           (1) by striking section 1763; and

5           (2) by adding at the end the following new section  
6   1764:

7   **“§ 1764. Authority to establish different minimum**  
8       **requirements**

9       “(a) **AUTHORITY.**—(1) The Secretary of Defense may pre-  
10   scribe a different minimum number of years of experience, dif-  
11   ferent minimum education qualifications, and different tenure  
12   of service qualifications to be required for eligibility for ap-  
13   pointment or advancement to an acquisition position referred to  
14   in subsection (b) than is required for such position under or  
15   pursuant to any provision of this chapter.

16       “(2) Any requirement prescribed under paragraph (1) for  
17   a position referred to in any paragraph of subsection (b) shall  
18   be applied uniformly to all positions referred to in such para-  
19   graph.

20       “(b) **APPLICABILITY.**—This section applies to the following  
21   acquisition positions in the Department of Defense:

22           “(1) Contracting officer, except a position referred to  
23   in paragraph (5).

24           “(2) Program executive officer.

25           “(3) Senior contracting official.

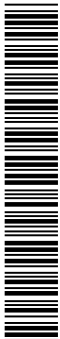
26           “(4) Program manager.

27           “(5) A position in the contract contingency force of an  
28   armed force that is filled by a member of that armed force.

29       “(c) **DEFINITION.**—In this section, the term ‘contract con-  
30   tingency force’, with respect to an armed force, has the mean-  
31   ing given such term in regulations prescribed by the Secretary  
32   concerned.”.

33   **SEC. 836. CLERICAL AMENDMENTS.**

34       The tables of sections for chapter 87 of title 10, United  
35   States Code, are amended as follows:



(1) The table of sections at the beginning of subchapter I is amended by striking the items relating to sections 1703, 1705, 1706, and 1707.

(2) The table of sections at the beginning of subchapter II is amended by striking the item relating to section 1725.

(3) The table of sections at the beginning of subchapter IV is amended by striking the items relating to sections 1742, 1743, and 1744 and inserting the following:

“1742. Internship, cooperative education, and scholarship programs.”.

(4) The table of sections at the beginning of subchapter V is amended by striking the item relating to section 1763 and inserting the following:

“1764. Authority to establish different minimum requirements.”.

## **Subtitle D—Amendments to General Contracting Authorities, Procedures, and Limitations**

### **SEC. 841. ADDITIONAL AUTHORITY TO ENTER INTO PERSONAL SERVICES CONTRACTS.**

(a) ADDITIONAL AUTHORITY.—Section 129b of title 10, United States Code is amended by adding at the end the following new subsection:

“(d) ADDITIONAL AUTHORITY FOR PERSONAL SERVICES CONTRACTS.—(1) In addition to the authority provided under subsection (a), the Secretary of Defense may enter into personal services contracts if the personal services—

“(A) are to be provided by individuals outside the United States, regardless of their nationality, and are determined by the Secretary to be necessary and appropriate for supporting the activities and programs of the Department of Defense outside the United States;

“(B) directly support the mission of a defense intelligence component or counter-intelligence organization of the Department of Defense; or

“(C) directly support the mission of the special operations command of the Department of Defense.





1 “(2) The contracting officer for a personal services con-  
2 tract under this subsection shall be responsible for ensuring  
3 that—

4 “(A) the services to be procured are urgent or unique;  
5 and

6 “(B) it would not be practicable for the Department  
7 to obtain such services by other means.

8 “(3) The requirements of section 3109 of title 5 shall not  
9 apply to a contract entered into under this subsection.”.

10 (b) CONFORMING AMENDMENTS.—(1) The heading for  
11 section 129b of such title is amended to read as follows:

12 **“§ 129b. Authority to procure personal services”.**

13 (2) The item relating to section 129b in the table of sec-  
14 tions at the beginning of chapter 3 of such title is amended to  
15 read as follows:

“129b. Authority to procure personal services.”.

16 **SEC. 842. ELIMINATION OF CERTAIN SUBCONTRACT NO-**  
17 **TIFICATION REQUIREMENTS.**

18 Subsection (e) of section 2306 of title 10, United States  
19 Code, is amended—

20 (1) by striking “(A)” and “(B)” and inserting “(i)”  
21 and “(ii)”, respectively;

22 (2) by redesignating paragraphs (1) and (2) as sub-  
23 paragraphs (A) and (B), respectively;

24 (3) by striking “Each” and inserting “(1) Except as  
25 provided in paragraph (2), each”; and

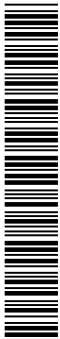
26 (4) by adding at the end the following new paragraph:

27 “(2) Paragraph (1) shall not apply to a prime contract  
28 with a contractor that maintains a purchasing system approved  
29 by the contracting officer for the contract.”.

30 **SEC. 843. MULTIYEAR TASK AND DELIVERY ORDER CON-**  
31 **TRACTS.**

32 (a) REPEAL OF APPLICABILITY OF EXISTING AUTHORITY  
33 AND LIMITATIONS.—Section 2306c of title 10, United States  
34 Code, is amended by striking subsection (g).

35 (b) CONTRACT PERIOD.—Section 2304a of such title is  
36 amended—



1 (1) by redesignating subsections (f) and (g) as sub-  
2 sections (g) and (h), respectively; and

3 (2) by inserting after subsection (e) the following new  
4 subsection (f):

5 “(f) CONTRACT PERIOD.—The head of an agency entering  
6 into a task or delivery order contract under this section may  
7 provide for the contract to cover a total period of not more  
8 than five years.”.

9 **SEC. 844. ELIMINATION OF REQUIREMENT TO FURNISH**  
10 **WRITTEN ASSURANCES OF TECHNICAL DATA**  
11 **CONFORMITY.**

12 Section 2320(b) of title 10, United States Code, is  
13 amended—

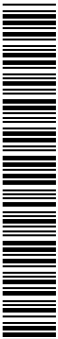
14 (1) by striking paragraph (7); and

15 (2) by redesignating paragraphs (8) and (9) as para-  
16 graphs (7) and (8), respectively.

17 **SEC. 845. ACCESS TO INFORMATION RELEVANT TO**  
18 **ITEMS DEPLOYED UNDER RAPID ACQUI-**  
19 **SITION AND DEPLOYMENT PROCEDURES.**

20 Section 806(c) of the Bob Stump National Defense Au-  
21 thorization Act for Fiscal Year 2003 (Public Law 107–314;  
22 116 Stat. 2607; 10 U.S.C. 2302 note) is amended by adding  
23 at the end the following new paragraph:

24 “(3) If items are deployed under the rapid acquisition and  
25 deployment procedures prescribed pursuant to this section, or  
26 under any other authority, before the completion of operational  
27 test and evaluation of the items, the Director of Operational  
28 Test and Evaluation shall have access to operational records  
29 and data relevant to such items in accordance with section  
30 139(e)(3) of title 10, United States Code, for the purpose of  
31 completing operational test and evaluation of the items. The ac-  
32 cess to the operational records and data shall be provided in  
33 a time and manner determined by the Secretary of Defense  
34 consistent with requirements of operational security and other  
35 relevant operational requirements.”.



**SEC. 846. APPLICABILITY OF REQUIREMENT FOR REPORTS ON MATURITY OF TECHNOLOGY AT INITIATION OF MAJOR DEFENSE ACQUISITION PROGRAMS.**

Section 804(a) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1180) is amended by striking “, as in effect on the date of enactment of this Act,” and inserting “(as in effect on the date of the enactment of this Act), and the corresponding provision of any successor to such Instruction,”.

**SEC. 847. CERTAIN WEAPONS-RELATED PROTOTYPE PROJECTS.**

(a) EXTENSION OF AUTHORITY.—Subsection (g) of section 845 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2371 note) is amended by striking “September 30, 2004” and inserting “September 30, 2008”.

(b) INCREASED SCOPE OF AUTHORITY.—Subsection (a) of such section is amended by inserting before the period at the end the following: “, or to improvement of weapons or weapon systems in use by the Armed Forces”.

(c) PILOT PROGRAM FOR TRANSITION TO FOLLOW-ON CONTRACTS.—Such section, as amended by subsection (a), is further amended—

(1) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

“(e) PILOT PROGRAM FOR TRANSITION TO FOLLOW-ON CONTRACTS.—(1) The Secretary of Defense is authorized to carry out a pilot program for follow-on contracting for the production of items or processes under prototype projects carried out under this section.

“(2) Under the pilot program—

“(A) a qualifying contract for the procurement of such an item or process, or a qualifying subcontract under a contract for the procurement of such an item or process, may be treated as a contract or subcontract, respectively, for the procurement of commercial items, as defined in sec-



1       tion 4(12) of the Office of Federal Procurement Policy Act  
2       (41 U.S.C. 403(12)); and

3       “(B) the item or process may be treated as an item  
4       or process, respectively, that is developed in part with Fed-  
5       eral funds and in part at private expense for the purposes  
6       of section 2320 of title 10, United States Code.

7       “(3) For the purposes of the pilot program, a qualifying  
8       contract or subcontract is a contract or subcontract, respec-  
9       tively, with a nontraditional defense contractor that—

10       “(A) does not exceed \$50,000,000; and

11       “(B) is either—

12       “(i) a firm, fixed-price contract or subcontract; or

13       “(ii) a fixed-price contract or subcontract with eco-  
14       nomic price adjustment.

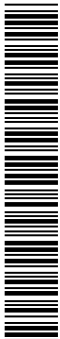
15       “(4) The authority to conduct a pilot program under this  
16       subsection shall terminate on September 30, 2008. The termi-  
17       nation of the authority shall not affect the validity of contracts  
18       or subcontracts that are awarded or modified during the period  
19       of the pilot program, without regard to whether the contracts  
20       or subcontracts are performed during the period.”.

21       **SEC. 848. LIMITED ACQUISITION AUTHORITY FOR COM-**  
22       **MANDER OF UNITED STATES JOINT FORCES**  
23       **COMMAND.**

24       (a) **THREE-YEAR AUTHORITY TO DELEGATE ACQUISITION**  
25       **AUTHORITY.**—(1) Chapter 6 of title 10, United States Code,  
26       is amended by inserting after section 167 the following new  
27       section:

28       **“§ 167a. Unified combatant command for joint**  
29       **warfighting experimentation: acquisition**  
30       **authority**

31       “(a) **LIMITED ACQUISITION AUTHORITY FOR COMMANDER**  
32       **OF CERTAIN UNIFIED COMBATANT COMMAND.**—The Secretary  
33       of Defense may delegate to the commander of the unified com-  
34       batant command referred to in subsection (b) authority of the  
35       Secretary under chapter 137 of this title sufficient to enable  
36       the commander to develop and acquire equipment described in



1 subsection (c). The exercise of authority so delegated is subject  
2 to the authority, direction, and control of the Secretary.

3 “(b) COMMAND DESCRIBED.—The commander to whom  
4 authority is delegated under subsection (a) is the commander  
5 of the unified combatant command that has the mission for  
6 joint warfighting experimentation, as assigned by the Secretary  
7 of Defense.

8 “(c) EQUIPMENT.—The equipment referred to in sub-  
9 section (a) is as follows:

10 “(1) Equipment for battle management command,  
11 control, communications, and intelligence.

12 “(2) Any other equipment that the commander re-  
13 ferred to in subsection (b) determines necessary and appro-  
14 priate for—

15 “(A) facilitating the use of joint forces in military  
16 operations; or

17 “(B) enhancing the interoperability of equipment  
18 used by the various components of joint forces.

19 “(d) EXCEPTIONS.—The authority delegated under sub-  
20 section (a) does not apply to the development or acquisition of  
21 a system for which—

22 “(1) the total expenditure for research, development,  
23 test, and evaluation is estimated to be \$10,000,000 or  
24 more; or

25 “(2) the total expenditure for procurement is esti-  
26 mated to be \$50,000,000 or more.

27 “(e) INTERNAL AUDITS AND INSPECTIONS.—The com-  
28 mander referred to in subsection (b) shall require the inspector  
29 general of that command to conduct internal audits and inspec-  
30 tions of purchasing and contracting administered by the com-  
31 mander under the authority delegated under subsection (a).

32 “(f) TERMINATION.—The Secretary may delegate the au-  
33 thority referred to in subsection (a) only during fiscal years  
34 2004 through 2006, and any authority so delegated shall not  
35 be in effect after September 30, 2006.”.



1           (2) The table of sections at the beginning of such chapter  
2 is amended by inserting after the item relating to section 167  
3 the following new item:

“167a. Unified combatant command for joint warfighting experimentation:  
acquisition authority.”.

4           (b) COMPTROLLER GENERAL REPORT.—The Comptroller  
5 General shall review the implementation of section 167a of title  
6 10, United States Code, as added by subsection (a), and submit  
7 to Congress a report on such review not later than two years  
8 after the date of the enactment of this Act. The review shall  
9 cover the extent to which the authority provided under such  
10 section 167a has been used.

## 11           **Subtitle E—Acquisition-Related** 12           **Reports and Other Matters**

### 13       **SEC. 851. REPORT ON CONTRACT PAYMENTS TO SMALL** 14       **BUSINESSES.**

15           (a) REPORT.—The Comptroller General shall prepare and  
16 submit to the congressional defense committees a report on the  
17 timeliness of contract payments made to small businesses dur-  
18 ing fiscal years 2001 and 2002 by the Department of Defense.  
19 The report shall include an estimate of the following:

20               (1) The total amount of contract payments made by  
21 the Department to small businesses.

22               (2) The percentage of total contract payments to small  
23 businesses that were not made in a timely manner.

24               (3) The reasons that contract payments to small busi-  
25 nesses were not made in a timely manner.

26               (4) The amount of interest owed and paid by the De-  
27 partment to small businesses due to contract payments not  
28 made in a timely manner.

29               (5) Such recommendations as the Comptroller General  
30 considers appropriate to improve the process for making  
31 contract payments to small businesses in a timely manner.

32           (b) DEFINITIONS.—For purposes of subsection (a)—

33               (1) a payment is considered not made in a timely  
34 manner if it caused interest to accrue under chapter 39 of



1 title 31, United States Code (relating to prompt payment);  
2 and

3 (2) the term “small business” means an entity that  
4 qualifies as a small business concern under the Small Busi-  
5 ness Act.

6 **SEC. 852. CONTRACTING WITH EMPLOYERS OF PERSONS**  
7 **WITH DISABILITIES.**

8 (a) INAPPLICABILITY OF RANDOLPH-SHEPPARD ACT.—  
9 The Randolph-Sheppard Act does not apply to any contract de-  
10 scribed in subsection (b) for so long as the contract is in effect,  
11 including for any period for which the contract is extended pur-  
12 suant to an option provided in the contract.

13 (b) JAVITS-WAGNER-O'DAY CONTRACTS.—Subsection (a)  
14 applies to any contract for the operation of a military mess  
15 hall, military troop dining facility, or any similar dining facility  
16 operated for the purpose of providing meals to members of the  
17 Armed Forces that—

18 (1) was entered into before the date of the enactment  
19 of this Act with a nonprofit agency for the blind or an  
20 agency for other severely handicapped in compliance with  
21 section 3 of the Javits-Wagner-O'Day Act (41 U.S.C. 48);  
22 and

23 (2) is in effect on such date.

24 (c) ENACTMENT OF POPULAR NAME AS SHORT TITLE.—  
25 The Act entitled “An Act to authorize the operation of stands  
26 in Federal buildings by blind persons, to enlarge the economic  
27 opportunities of the blind, and for other purposes”, approved  
28 June 20, 1936 (commonly known as the “Randolph-Sheppard  
29 Act”) (20 U.S.C. 107 et seq.), is amended by adding at the end  
30 the following new section:

31 “SEC. 11. This Act may be cited as the ‘Randolph-  
32 Sheppard Act’.”.

33 **SEC. 853. DEMONSTRATION PROJECT FOR CONTRAC-**  
34 **TORS EMPLOYING PERSONS WITH DISABIL-**  
35 **ITIES.**

36 (a) AUTHORITY.—The Secretary of Defense may carry out  
37 a demonstration project by entering into one or more contracts



1 with an eligible contractor for the purpose of providing defense  
2 contracting opportunities for severely disabled individuals.

3 (b) EVALUATION FACTOR.—In evaluating an offer for a  
4 contract under the demonstration program, the percentage of  
5 the total workforce of the offeror consisting of severely disabled  
6 individuals employed by the offeror shall be one of the evalua-  
7 tion factors.

8 (c) DEFINITIONS.—In this section:

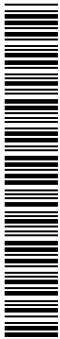
9 (1) ELIGIBLE CONTRACTOR.—The term “eligible con-  
10 tractor” means a business entity operated on a for-profit  
11 or nonprofit basis that—

12 (A) employs severely disabled individuals at a rate  
13 that averages not less than 33 percent of its total  
14 workforce over a period prescribed by the Secretary;

15 (B) pays not less than the minimum wage pre-  
16 scribed pursuant to section 6 of the Fair Labor Stand-  
17 ards Act of 1938 (29 U.S.C. 206) to the employees  
18 who are severely disabled individuals; and

19 (C) provides for its employees health insurance  
20 and a retirement plan comparable to those provided for  
21 employees by business entities of similar size in its in-  
22 dustrial sector or geographic region.

23 (2) SEVERELY DISABLED INDIVIDUAL.—The term “se-  
24 verely disabled individual” means an individual with a dis-  
25 ability (as defined in section 3 of the Americans with Dis-  
26 abilities Act of 1990 (42 U.S.C. 12102)) who has a severe  
27 physical or mental impairment that seriously limits one or  
28 more functional capacities.





1 **TITLE IX—DEPARTMENT OF DE-**  
2 **FENSE ORGANIZATION AND MAN-**  
3 **AGEMENT**

**Subtitle A—Duties and Functions of Department of Defense  
Officers and Organizations**

- Sec. 901. Clarification of responsibility of military departments to support combatant commands.
- Sec. 902. Combatant Commander Initiative Fund.
- Sec. 903. Biennial review of national military strategy by Chairman of the Joint Chiefs of Staff.
- Sec. 904. Report on changing roles of United States Special Operations Command.
- Sec. 905. Sense of Congress regarding continuation of mission and functions of Army Peacekeeping Institute.
- Sec. 906. Transfer to Office of Personnel Management of personnel investigative functions and related personnel of the Department of Defense.
- Sec. 907. Defense acquisition workforce freeze for fiscal year 2004.

**Subtitle B—Space Activities**

- Sec. 911. Coordination of space science and technology activities of the Department of Defense.
- Sec. 912. Policy regarding assured access to space for United States national security payloads.
- Sec. 913. Pilot program for provision of space surveillance network services to non-United States Government entities.
- Sec. 914. Content of biennial global positioning system report.
- Sec. 915. Report on processes-related space systems.

**Subtitle C—Department of Defense Intelligence Components**

- Sec. 921. Redesignation of National Imagery and Mapping Agency as National Geospatial-Intelligence Agency.
- Sec. 922. Protection of operational files of the National Security Agency.
- Sec. 923. Integration of defense intelligence, surveillance, and reconnaissance capabilities
- Sec. 924. Management of National Security Agency Modernization Program.
- Sec. 925. Modification of obligated service requirements under National Security Education Program.
- Sec. 926. Authority to provide living quarters for certain students in cooperative and summer education programs of the National Security Agency.
- Sec. 927. Commercial imagery industrial base.

**Subtitle D—Other Matters**

- Sec. 931. Authority for Asia-Pacific Center for Security Studies to accept gifts and donations.
- Sec. 932. Repeal of rotating chairmanship of Economic Adjustment Committee.
- Sec. 933. Extension of certain authorities applicable to the Pentagon Reservation to include a designated Pentagon continuity-of-Government location.



**Subtitle A—Duties and Functions of Department  
of Defense Officers and Organizations**

**SEC. 901. CLARIFICATION OF RESPONSIBILITY OF MILITARY DEPARTMENTS TO SUPPORT COMBATANT COMMANDS.**

Sections 3013(c)(4), 5013(c)(4), and 8013(c)(4) of title 10, United States Code, are amended by striking “(to the maximum extent practicable)”.

**SEC. 902. COMBATANT COMMANDER INITIATIVE FUND.**

(a) REDESIGNATION OF CINC INITIATIVE FUND.—(1) The CINC Initiative Fund administered under section 166a of title 10, United States Code, is redesignated as the “Combatant Commander Initiative Fund”.

(2) Section 166a of title 10, United States Code, is amended—

(A) by striking the heading for subsection (a) and inserting “COMBATANT COMMANDER INITIATIVE FUND.—”; and

(B) by striking “CINC Initiative Fund” in subsections (a), (c), and (d), and inserting “Combatant Commander Initiative Fund”.

(3) Any reference to the CINC Initiative Fund in any other provision of law or in any regulation, document, record, or other paper of the United States shall be considered to be a reference to the Combatant Commander Initiative Fund.

(b) AUTHORIZED ACTIVITIES.—Subsection (b) of section 166a of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(10) Joint warfighting capabilities.”.

(c) INCREASED MAXIMUM AMOUNTS AUTHORIZED FOR USE.—Subsection (c)(1) of such section is amended—

(1) in subparagraph (A), by striking “\$7,000,000” and inserting “\$10,000,000”;

(2) in subparagraph (B), by striking “\$1,000,000” and inserting “\$10,000,000”; and

(3) in subparagraph (C), by striking “\$2,000,000” and inserting “\$5,000,000”.



**SEC. 903. BIENNIAL REVIEW OF NATIONAL MILITARY  
STRATEGY BY CHAIRMAN OF THE JOINT  
CHIEFS OF STAFF.**

(a) BIENNIAL REVIEW.—Section 153 of title 10, United States Code, by adding at the end the following new subsection:

“(d) BIENNIAL REVIEW OF NATIONAL MILITARY STRATEGY.—(1) Not later than February 15 of each even-numbered year, the Chairman shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the results of a comprehensive examination of the national military strategy. Each such examination shall be conducted by the Chairman in conjunction with the other members of the Joint Chiefs of Staff and the commanders of the unified and specified commands.

“(2) Each report on the examination of the national military strategy under paragraph (1) shall include the following:

“(A) Delineation of a national military strategy consistent with—

“(i) the most recent National Security Strategy prescribed by the President pursuant to section 108 of the National Security Act of 1947 (50 U.S.C. 404a);

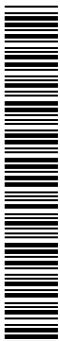
“(ii) the most recent annual report of the Secretary of Defense submitted to the President and Congress pursuant to section 113 of this title; and

“(iii) the most recent Quadrennial Defense Review conducted by the Secretary of Defense pursuant to section 118 of this title.

“(B) A description of the strategic environment and the opportunities and challenges that affect United States national interests and United States national security.

“(C) A description of the regional threats to United States national interests and United States national security.

“(D) A description of the international threats posed by terrorism, weapons of mass destruction, and asymmetric challenges to United States national security.



1           “(E) Identification of United States national military  
2 objectives and the relationship of those objectives to the  
3 strategic environment, regional, and international threats.

4           “(F) Identification of the strategy, underlying con-  
5 cepts, and component elements that contribute to the  
6 achievement of United States national military objectives.

7           “(G) Assessment of the capabilities and adequacy of  
8 United States forces (including both active and reserve  
9 components) to successfully execute the national military  
10 strategy.

11           “(H) Assessment of the capabilities, adequacy, and  
12 interoperability of regional allies of the United States and  
13 or other friendly nations to support United States forces in  
14 combat operations and other operations for extended peri-  
15 ods of time.

16           “(3)(A) As part of the assessment under this subsection,  
17 the Chairman, in conjunction with the other members of the  
18 Joint Chiefs of Staff and the commanders of the unified and  
19 specified commands, shall undertake an assessment of the na-  
20 ture and magnitude of the strategic and military risks associ-  
21 ated with successfully executing the missions called for under  
22 the current National Military Strategy.

23           “(B) In preparing the assessment of risk, the Chairman  
24 should make assumptions pertaining to the readiness of United  
25 States forces (in both the active and reserve components), the  
26 length of conflict and the level of intensity of combat oper-  
27 ations, and the levels of support from allies and other friendly  
28 nations.

29           “(4) Before submitting a report under this subsection to  
30 the Committees on Armed Services of the Senate and House  
31 of Representatives, the Chairman shall provide the report to  
32 the Secretary of Defense. The Secretary’s assessment and com-  
33 ments thereon (if any) shall be included with the report. If the  
34 Chairman’s assessment in such report in any year is that the  
35 risk associated with executing the missions called for under the  
36 National Military Strategy is significant, the Secretary shall in-



1 include with the report as submitted to those committees the Sec-  
2 retary's plan for mitigating the risk.".

3 (b) CONFORMING AMENDMENT.—Subsection (b)(1) of  
4 such section is amended by striking "each year" and inserting  
5 "of each odd-numbered year".

6 **SEC. 904. REPORT ON CHANGING ROLES OF UNITED**  
7 **STATES SPECIAL OPERATIONS COMMAND.**

8 (a) REPORT REQUIRED.—Not later than 180 days after  
9 the date of the enactment of this Act, the Secretary of Defense  
10 shall submit to the Committees on Armed Services of the Sen-  
11 ate and the House of Representatives a report on the changing  
12 roles of the United States Special Operations Command.

13 (b) CONTENT OF REPORT.—(1) The report shall specifi-  
14 cally discuss in detail the following matters:

15 (A) The expanded role of the United States Special  
16 Operations Command in the global war on terrorism.

17 (B) The reorganization of that command to function  
18 as a supported combatant command for planning and exe-  
19 cuting operations.

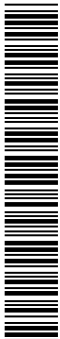
20 (C) The role of that command as a supporting com-  
21 batant command.

22 (2) The report shall also include, in addition to the mat-  
23 ters discussed pursuant to paragraph (1), a discussion of the  
24 following matters:

25 (A) The military strategy to employ the United States  
26 Special Operations Command to fight the global war on  
27 terrorism and how that strategy contributes to the overall  
28 national security strategy with regard to the global war on  
29 terrorism.

30 (B) The scope of the authority granted to the com-  
31 mander of that command to act as a supported commander  
32 and to prosecute the global war on terrorism.

33 (C) The operational and legal parameters within which  
34 the commander of that command is to exercise command  
35 authority in foreign countries when taking action against  
36 foreign and United States citizens engaged in terrorist ac-  
37 tivities.



(D) The decisionmaking procedures for authorizing, planning, and conducting individual missions by that command, including—

(i) the requirement in section 167(d)(2) of title 10, United States Code, that the conduct of a special operations mission under the command of the commander of the United States Special Operations Command be authorized by the President or the Secretary of Defense; and

(ii) procedures for consultation with Congress.

(E) The procedures for the commander of that command to use to coordinate with commanders of other combatant commands, especially geographic commands.

(F) Future organization plans and resource requirements for that command conducting the global counterterrorism mission.

(G) The effect of the changing role of that command on other special operations missions, including foreign internal defense, psychological operations, civil affairs, unconventional warfare, counterdrug activities, and humanitarian activities.

(c) FORMS OF REPORT.—The report shall be submitted in unclassified form and, as necessary, in classified form.

**SEC. 905. SENSE OF CONGRESS REGARDING CONTINUATION OF MISSION AND FUNCTIONS OF ARMY PEACEKEEPING INSTITUTE.**

It is the sense of Congress that the Secretary of Defense should maintain the functions and missions of the Army Peacekeeping Institute at the Army War College in Carlisle, Pennsylvania, or within a joint entity of the Department of Defense, such as the National Defense University or the Joint Forces Command, to ensure that members of the Armed Forces continue to study the strategic challenges and uses of peacekeeping missions and to prepare the Armed Forces for conducting such missions.



**SEC. 906. TRANSFER TO OFFICE OF PERSONNEL MANAGEMENT OF PERSONNEL INVESTIGATIVE FUNCTIONS AND RELATED PERSONNEL OF THE DEPARTMENT OF DEFENSE.**

(a) TRANSFER OF FUNCTIONS.—(1) Subject to subsection (b), the Secretary of Defense may transfer to the Office of Personnel Management the personnel security investigations functions that, as of the date of the enactment of this Act, are performed by the Defense Security Service of the Department of Defense. Such a transfer may be made only with the concurrence of the Director of the Office of Personnel Management.

(2) The Director of the Office of Personnel Management may accept a transfer of functions under paragraph (1).

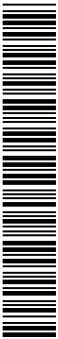
(3) Any transfer of a function under this subsection is a transfer of function within the meaning of section 3503 of title 5, United States Code.

(b) LIMITATION.—(1) The Secretary of Defense may not make a transfer of functions under subsection (a) unless the Secretary determines, and certifies in writing to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate, that each of the conditions specified in paragraph (2) has been met. Such a transfer may then be made only after a period of 30 days has elapsed after the date on which the certification is received by those committees.

(2) The conditions referred to in paragraph (1) are the following:

(A) That the Office of Personnel Management is fully capable of carrying out high-priority investigations required by the Secretary of Defense within a timeframe set by the Secretary of Defense.

(B) That the Office of Personnel Management has undertaken necessary and satisfactory steps to ensure that investigations performed on Department of Defense contract personnel will be conducted in an expeditious manner sufficient to ensure that those contract personnel are available



1 to the Department of Defense within a timeframe set by  
2 the Secretary of Defense.

3 (C) That the Department of Defense will retain capa-  
4 bilities in the form of Federal employees to monitor and in-  
5 vestigate Department of Defense and contractor personnel  
6 as necessary to perform counterintelligence functions and  
7 polygraph activities of the Department.

8 (D) That the authority to adjudicate background in-  
9 vestigations will remain with the Department of Defense  
10 and that the transfer of Defense Security Service personnel  
11 to the Office of Personnel Management will improve the  
12 speed and efficiency of the adjudication process.

13 (E) That the Department of Defense will retain within  
14 the Defense Security Service sufficient personnel and capa-  
15 bilities to improve Department of Defense industrial secu-  
16 rity programs and practices.

17 (c) TRANSFER OF PERSONNEL.—(1) If the Director of the  
18 Office of Personnel Management accepts a transfer of functions  
19 under subsection (a), the Secretary of Defense shall also trans-  
20 fer to the Office of Personnel Management, and the Director  
21 shall accept—

22 (A) the Defense Security Service employees who per-  
23 form those functions immediately before the transfer of  
24 functions; and

25 (B) the Defense Security Service employees who, as of  
26 such time, are first level supervisors of employees trans-  
27 ferred under subparagraph (A).

28 (2) The Secretary may also transfer to the Office of Per-  
29 sonnel Management any Defense Security Service employees  
30 (including higher level supervisors) who provide support serv-  
31 ices for the performance of the functions transferred under  
32 subsection (a) or for the personnel (including supervisors)  
33 transferred under paragraph (1) if the Director—

34 (A) determines that the transfer of such additional  
35 employees and the positions of such employees to the Office  
36 of Personnel Management is necessary in the interest of ef-  
37 fective performance of the transferred functions; and





1 (B) accepts the transfer of the additional employees.

2 (3) In the case of an employee transferred to the Office  
3 of Personnel Management under paragraph (1) or (2), whether  
4 a full-time or part-time employee—

5 (A) subsections (b) and (c) of section 5362 of title 5,  
6 United States Code, relating to grade retention, shall apply  
7 to the employee, except that—

8 (i) the grade retention period shall be the one-year  
9 period beginning on the date of the transfer; and

10 (ii) paragraphs (1), (2), and (3) of such subsection  
11 (c) shall not apply to the employee; and

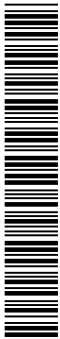
12 (B) the employee may not be separated, other than  
13 pursuant to chapter 75 of title 5, United States Code, dur-  
14 ing such one-year period.

15 (d) ACTIONS AFTER TRANSFER.—(1) Not later than one  
16 year after a transfer of functions to the Office of Personnel  
17 Management under subsection (a), the Director of the Office of  
18 Personnel Management, in coordination with the Secretary of  
19 Defense, shall review all functions performed by personnel of  
20 the Defense Security Service at the time of the transfer and  
21 make a written determination regarding whether each such  
22 function is inherently governmental or is otherwise inappro-  
23 priate for performance by contractor personnel.

24 (2) A function performed by Defense Security Service em-  
25 ployees as of the date of the enactment of this Act may not  
26 be converted to contractor performance by the Director of the  
27 Office of Personnel Management until—

28 (A) the Director reviews the function in accordance  
29 with the requirements of paragraph (1) and makes a writ-  
30 ten determination that the function is not inherently gov-  
31 ernmental and is not otherwise inappropriate for contractor  
32 performance; and

33 (B) the Director conducts a public-private competition  
34 regarding the performance of that function in accordance  
35 with the requirements of the Office of Management and  
36 Budget Circular A-76.



1   **SEC. 907. DEFENSE ACQUISITION WORKFORCE FREEZE**  
2       **FOR FISCAL YEAR 2004.**

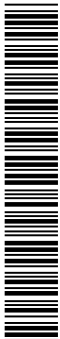
3       (a) DEFENSE ACQUISITION WORKFORCE FREEZE.—Dur-  
4   ing fiscal year 2004, the number of defense acquisition and  
5   support personnel may not at any time be greater than one  
6   percent above, or less than one percent below, the baseline  
7   number, and any variation from the baseline number (within  
8   such one percent variance) shall be only to exercise normal hir-  
9   ing and firing flexibility during the fiscal year.

10      (b) BASELINE NUMBER.—For purposes of subsection (a),  
11   the baseline number is the number of defense acquisition and  
12   support personnel as of October 1, 2003.

13      (c) USE OF FULL-TIME EQUIVALENT POSITIONS.—All de-  
14   terminations of personnel strengths for purposes of this section  
15   shall be on the basis of full-time equivalent positions.

16      (d) WAIVER AUTHORITY.—The Secretary of Defense may  
17   waive the limitation in subsection (a) upon a determination  
18   that such waiver is necessary to protect a significant national  
19   security interest of the United States. If the Secretary makes  
20   such a determination, the Secretary shall, within 30 days after  
21   making the determination, notify the Committees on Armed  
22   Services of the Senate and House of Representatives of the de-  
23   termination and the reasons for the determination.

24      (e) DEFINITION.—In this section, the term “defense acqui-  
25   sition and support personnel” means members of the Armed  
26   Forces and civilian personnel (other than civilian personnel who  
27   are employed at a maintenance depot) who are assigned to, or  
28   employed in, acquisition organizations of the Department of  
29   Defense (as specified in Department of Defense Instruction  
30   numbered 5000.58, dated January 14, 1992), and any other  
31   organization that, as determined by the Secretary, has acqui-  
32   sition as its predominant mission.



**Subtitle B—Space Activities****SEC. 911. COORDINATION OF SPACE SCIENCE AND TECHNOLOGY ACTIVITIES OF THE DEPARTMENT OF DEFENSE.**

(a) IN GENERAL.—(1) Chapter 135 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 2272. Space science and technology strategy: coordination**

“(a) SPACE SCIENCE AND TECHNOLOGY STRATEGY.—(1) The Secretary of Defense shall develop and implement a space science and technology strategy and shall review and, as appropriate, revise the strategy annually. Functions of the Secretary under this subsection shall be carried out jointly by the Director of Defense Research and Engineering and the official of the Department of Defense designated as the Department of Defense Executive Agent for Space.

“(2) The strategy under paragraph (1) shall, at a minimum, address the following issues:

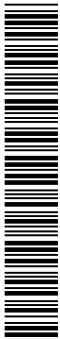
“(A) Short-term and long-term goals of the space science and technology programs of the Department of Defense.

“(B) The process for achieving the goals identified under subparagraph (A), including an implementation plan for achieving those goals.

“(C) The process for assessing progress made toward achieving those goals.

“(3) The strategy under paragraph (1) shall be included as part of the annual National Security Space Plan developed pursuant to Department of Defense regulations and shall be provided to Department of Defense components and science and technology entities of the Department of Defense to support the planning, programming, and budgeting processes of the Department.

“(4) The strategy under paragraph (1) shall be developed in consultation with the directors of research laboratories of the Department of Defense, the directors of the other Department



1 of Defense research components, and the heads of other organi-  
2 zations of the Department of Defense as identified by the Di-  
3 rector of Defense Research and Engineering and the Depart-  
4 ment of Defense Executive Agent for Space.

5 “(5) The strategy shall be available for review by the con-  
6 gressional defense committees.

7 “(b) REQUIRED COORDINATION.—In carrying out the  
8 space science and technology strategy developed under sub-  
9 section (a), the directors of the research laboratories of the De-  
10 partment of Defense, the directors of the other Department of  
11 Defense research components, and the heads of all other appro-  
12 priate organizations identified jointly by the Director of De-  
13 fense Research and Engineering and the Department of De-  
14 fense Executive Agent for Space shall each—

15 “(1) identify research projects in support of that strat-  
16 egy that contribute directly and uniquely to the develop-  
17 ment of space technology; and

18 “(2) inform the Director of Defense Research and En-  
19 gineering and the Department of Defense Executive Agent  
20 for Space of the planned budget and planned schedule for  
21 executing those projects.

22 “(c) DEFINITIONS.—In this section:

23 “(1) The term ‘research laboratory of the Department  
24 of Defense’ means any of the following:

25 “(A) The Air Force Research Laboratory.

26 “(B) The Naval Research Laboratory.

27 “(C) The Office of Naval Research.

28 “(D) The Army Research Laboratory.

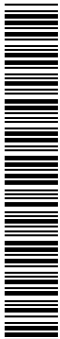
29 “(2) The term ‘other Department of Defense research  
30 component’ means either of the following:

31 “(A) The Defense Advanced Research Projects  
32 Agency.

33 “(B) The National Reconnaissance Office.”.

34 (2) The table of sections at the beginning of such chapter  
35 is amended by adding at the end the following new item:

“2272. Space science and technology strategy: coordination.”.



(b) GENERAL ACCOUNTING OFFICE REVIEW.—(1) The Comptroller General shall review and assess the space science and technology strategy developed under subsection (a) of section 2272 of title 10, United States Code, as added by subsection (a), and the effectiveness of the coordination process required under subsection (b) of that section.

(2) Not later than September 1, 2004, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the findings and assessment under paragraph (1).

**SEC. 912. POLICY REGARDING ASSURED ACCESS TO SPACE FOR UNITED STATES NATIONAL SECURITY PAYLOADS.**

(a) IN GENERAL.—(1) Chapter 135 of title 10, United States Code, is amended by adding after section 2272, as added by section 911(a)(1), the following new section:

**“§ 2273. Policy regarding assured access to space: national security payloads**

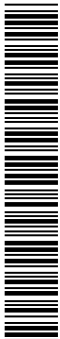
“(a) POLICY.—It is the policy of the United States for the President to undertake actions appropriate to ensure, to the maximum extent practicable, that the United States has the capabilities necessary to launch and insert United States national security payloads into space whenever such payloads are needed in space.

“(b) INCLUDED ACTIONS.—The appropriate actions referred to in subsection (a) shall include, at a minimum, providing resources and policy guidance to sustain—

“(1) the availability of at least two space launch vehicles (or families of space launch vehicles) capable of delivering into space any payload designated by the Secretary of Defense or the Director of Central Intelligence as a national security payload; and

“(2) a robust space launch infrastructure and industrial base.

“(c) COORDINATION.—The Secretary of Defense shall, to the maximum extent practicable, pursue the attainment of the capabilities described in subsection (a) in coordination with the



1 Administrator of the National Aeronautics and Space Adminis-  
2 tration.”.

3 (b) CLERICAL AMENDMENT.—The table of sections at the  
4 beginning of such chapter is amended by adding after the item  
5 relating to section 2272, as added by section 911(a)(2), the fol-  
6 lowing new item:

“2273. Policy regarding assured access to space: national security pay-  
loads.”.

7 **SEC. 913. PILOT PROGRAM FOR PROVISION OF SPACE**  
8 **SURVEILLANCE NETWORK SERVICES TO**  
9 **NON-UNITED STATES GOVERNMENT ENTI-**  
10 **TIES.**

11 (a) IN GENERAL.—Chapter 135 of title 10, United States  
12 Code, is amended by adding after section 2273, as added by  
13 section 912(a), the following new section:

14 **“§ 2274. Space surveillance network: pilot program**  
15 **for provision of satellite tracking support**  
16 **to entities outside United States Govern-**  
17 **ment**

18 “(a) PILOT PROGRAM.—The Secretary of Defense may  
19 carry out a pilot program to determine the feasibility and desir-  
20 ability of providing to non-United States Government entities  
21 space surveillance data support described in subsection (b).

22 “(b) SPACE SURVEILLANCE DATA SUPPORT.—Under such  
23 a pilot program, the Secretary may provide to a non-United  
24 States Government entity, subject to an agreement described in  
25 subsection (d), the following:

26 “(1) Satellite tracking services from assets owned or  
27 controlled by the Department of Defense, but only if the  
28 Secretary determines, in the case of any such agreement,  
29 that providing such services to that entity is in the national  
30 security interests of the United States.

31 “(2) Space surveillance data and the analysis of space  
32 surveillance data, but only if the Secretary determines, in  
33 the case of any such agreement, that providing such data  
34 and analysis to that entity is in the national security inter-  
35 ests of the United States.



1 “(c) ELIGIBLE ENTITIES.—Under the pilot program, the  
2 Secretary may provide space surveillance data support to non-  
3 United States Government entities including the following:

4 “(1) State governments.

5 “(2) Governments of political subdivisions of States.

6 “(3) United States commercial entities.

7 “(4) Governments of foreign countries.

8 “(5) Foreign commercial entities.

9 “(d) REQUIRED AGREEMENT.—The Secretary may not  
10 provide space surveillance data support to a non-United States  
11 Government entity under the pilot program unless that entity  
12 enters into an agreement with the Secretary under which the  
13 entity—

14 “(1) agrees to pay an amount that may be charged by  
15 the Secretary under subsection (e); and

16 “(2) agrees not to transfer any data or technical infor-  
17 mation received under the agreement, including the anal-  
18 ysis of tracking data, to any other entity without the ex-  
19 press approval of the Secretary.

20 “(e) RULE OF CONSTRUCTION CONCERNING PROVISION  
21 OF INTELLIGENCE ASSETS OR DATA.—Nothing in this section  
22 shall be considered to authorize the provision of services or in-  
23 formation concerning, or derived from, United States intel-  
24 ligence assets or data.

25 “(f) CHARGES.—(1) As a condition of an agreement under  
26 subsection (d), the Secretary may (except as provided in para-  
27 graph (2)) require the non-United States Government entity  
28 entering into the agreement to pay to the Department of De-  
29 fense such amounts as the Secretary determines to be nec-  
30 essary to reimburse the Department for the costs of the De-  
31 partment of providing space surveillance data support under  
32 the agreement.

33 “(2) The Secretary may not require the government of a  
34 State or of a political subdivision of a State to pay any amount  
35 under paragraph (1).

36 “(g) CREDITING OF FUNDS RECEIVED.—Funds received  
37 for the provision of space surveillance data support pursuant to



1 an agreement under this section shall be credited to accounts  
2 of the Department of Defense that are current when the funds  
3 are received and that are available for the same purposes as  
4 the accounts originally charged to provide such support. Funds  
5 so credited shall merge with and become available for obligation  
6 for the same period as the accounts to which they are credited.

7 “(h) PROCEDURES.—The Secretary shall establish proce-  
8 dures for the conduct of the pilot program. As part of those  
9 procedures, the Secretary may allow space surveillance data  
10 and analysis of space surveillance data to be provided through  
11 a contractor of the Department of Defense.

12 “(i) DURATION OF PILOT PROGRAM.—The pilot program  
13 under this section shall be conducted during the three-year pe-  
14 riod beginning on a date specified by the Secretary of Defense,  
15 which date shall be not later than 180 days after the date of  
16 the enactment of this section.”.

17 (b) CLERICAL AMENDMENT.—The table of sections at the  
18 beginning of such chapter is amended by adding after the item  
19 relating to section 2273, as added by section 912(b), the fol-  
20 lowing new item:

“2274. Space surveillance network: pilot program for provision of satellite  
tracking support to entities outside United States Government.”.

21 **SEC. 914. CONTENT OF BIENNIAL GLOBAL POSITIONING**  
22 **SYSTEM REPORT.**

23 (a) REVISED CONTENT.—Paragraph (1) of section  
24 2281(d) of title 10, United States Code, is amended—

25 (1) by striking subparagraph (C);

26 (2) by redesignating subparagraph (D) as subpara-  
27 graph (C);

28 (3) by redesignating subparagraph (E) as subpara-  
29 graph (D) and in that subparagraph striking “Any  
30 progress made toward” and inserting “Progress and chal-  
31 lenges in”; and

32 (4) by striking subparagraph (F) and inserting the fol-  
33 lowing:

34 “(E) Progress and challenges in protecting GPS from  
35 jamming, disruption, and interference.





1 “(F) Progress and challenges in developing the en-  
2 hanced Global Positioning System required by section  
3 218(b) of the Strom Thurmond National Defense Author-  
4 ization Act for Fiscal Year 1999 (Public Law 105-261;  
5 112 Stat. 1951; 10 U.S.C. 2281 note).”.

6 (b) CONFORMING AMENDMENT.—Paragraph (2) of such  
7 section is amended by inserting “(C),” after “under subpara-  
8 graphs”.

9 **SEC. 915. REPORT ON PROCESSES-RELATED SPACE SYS-**  
10 **TEMS.**

11 Not later than March 15, 2004, the Secretary of Defense  
12 shall submit to the Committees on Armed Services of the Sen-  
13 ate and House of Representatives a report to provide the —

14 (1) the Secretary’s assessment of the role of the  
15 United States Strategic Command in planning and require-  
16 ments development for space systems to support the  
17 warfighter;

18 (2) the Secretary’s assessment of the processes by  
19 which space systems capabilities are integrated into train-  
20 ing and doctrine of the Armed Forces; and

21 (3) the Secretary’s recommendations for improvements  
22 in the processes identified pursuant to paragraphs (1) and  
23 (2).

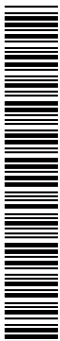
24 **Subtitle C—Department of Defense Intelligence**  
25 **Components**

26 **SEC. 921. REDESIGNATION OF NATIONAL IMAGERY AND**  
27 **MAPPING AGENCY AS NATIONAL**  
28 **GEOSPATIAL-INTELLIGENCE AGENCY.**

29 (a) REDESIGNATION.—The National Imagery and Map-  
30 ping Agency of the Department of Defense is hereby redesi-  
31 gnated as the National Geospatial-Intelligence Agency.

32 (b) DEFINITION OF GEOSPATIAL INTELLIGENCE.—Section  
33 467 of title 10, United States Code, is amended by adding at  
34 the end the following new paragraph:

35 “(5) The term ‘geospatial intelligence’ means the ex-  
36 ploitation and analysis of imagery and geospatial informa-  
37 tion to describe, assess, and visually depict physical fea-



1       tures and geographically referenced activities on the earth.  
2       Geospatial intelligence consists of imagery, imagery intel-  
3       ligence, and geospatial information.”.

4       (c) AGENCY MISSIONS.—(1) Section 442(a) of title 10,  
5       United States Code, is amended—

6           (A) in paragraph (1), by inserting “geospatial intel-  
7       ligence consisting of” after “provide”; and

8           (B) in paragraph (2), by striking “Imagery, intel-  
9       ligence, and information” and inserting “Geospatial intel-  
10      ligence”.

11      (2) Section 110(a) of the National Security Act of 1947  
12      (50 U.S.C. 404e(a)) is amended by striking “imagery” and in-  
13      serting “geospatial intelligence”.

14      (d) TECHNICAL AND CONFORMING AMENDMENTS TO  
15      TITLE 10, UNITED STATES CODE.—Title 10, United States  
16      Code, is amended as follows:

17           (1) The heading of chapter 22 is amended to read as  
18      follows:

19           **“CHAPTER 22—NATIONAL GEOSPATIAL-**  
20           **INTELLIGENCE AGENCY”.**

21      (2) Chapter 22 is amended—

22           (A) by striking “National Imagery and Mapping  
23       Agency” each place it appears (other than in section  
24       461(b)) and inserting “National Geospatial-Intelligence  
25       Agency”;

26           (B) in section 453(b), by striking “NIMA” in  
27       paragraphs (1) and (2) and inserting “NGA”; and

28           (C) in section 461(b)—

29           (i) by striking “The National Imagery and  
30       Mapping Agency” and inserting “The Director of  
31       the National Geospatial-Intelligence Agency”; and

32           (ii) by striking “on the day before” and all  
33       that follows through the period and inserting “on  
34       September 30, 1996.”.

35      (3) Section 193 is amended—

36           (A) by striking “National Imagery and Mapping  
37       Agency” in subsections (d)(1), (d)(2), (e), and (f)(4)



1 and inserting “National Geospatial-Intelligence Agen-  
2 cy”;

3 (B) in the heading for subsection (d), by striking  
4 “NATIONAL IMAGERY AND MAPPING AGENCY” and in-  
5 serting “NATIONAL GEOSPATIAL-INTELLIGENCE AGEN-  
6 cy”; and

7 (C) in the heading for subsection (e), by striking  
8 “NIMA” and inserting “NGA”.

9 (4) Section 201 is amended by striking “National Im-  
10 agery and Mapping Agency” in subsections (b)(2)(C) and  
11 (c)(2)(C) and inserting “National Geospatial-Intelligence  
12 Agency”.

13 (5)(A) Section 424 is amended by striking “National  
14 Imagery and Mapping Agency” in subsection (b)(3) and in-  
15 serting “National Geospatial-Intelligence Agency”.

16 (B)(i) The heading of such section is amended to read  
17 as follows:

18 **“§ 424. Disclosure of organizational and personnel**  
19 **information: exemption for specified intel-**  
20 **ligence agencies”.**

21 (ii) The item relating to that section in the table of  
22 sections at the beginning of subchapter I of chapter 21 is  
23 amended to read as follows:

“424. Disclosure of organizational and personnel information: exemption for  
specified intelligence agencies.”.

24 (6) Section 425(a) is amended by adding at the end  
25 the following new paragraph:

26 “(5) The words ‘National Geospatial-Intelligence  
27 Agency’, the initials ‘NGA,’ or the seal of the National  
28 Geospatial-Intelligence Agency.”.

29 (7) Section 1614(2)(C) is amended by striking “Na-  
30 tional Imagery and Mapping Agency” and inserting “Na-  
31 tional Geospatial-Intelligence Agency”.

32 (8) The tables of chapters at the beginning of subtitle  
33 A, and at the beginning of part I of subtitle A, are each  
34 amended by striking “Imagery and Mapping” in the item



1 relating to chapter 22 and inserting “Geospatial-Intel-  
2 ligence”.

3 (e) CONFORMING AMENDMENTS TO NATIONAL SECURITY  
4 ACT OF 1947.—The National Security Act of 1947 is amended  
5 as follows:

6 (1) Section 3 (50 U.S.C. 401a) is amended by striking  
7 “National Imagery and Mapping Agency” in paragraph  
8 (4)(E) and inserting “National Geospatial- Intelligence  
9 Agency”.

10 (2) Section 105 (50 U.S.C. 403–5) is amended by  
11 striking “National Imagery and Mapping Agency” in sub-  
12 sections (b)(2) and (d)(3) and inserting “National  
13 Geospatial-Intelligence Agency”.

14 (3) Section 105A (50 U.S.C. 403–5a) is amended by  
15 striking “National Imagery and Mapping Agency” in sub-  
16 section (b)(1)(C) and inserting “National Geospatial-Intel-  
17 ligence Agency”.

18 (4) Section 105C (50 U.S.C. 403-5c) is amended—

19 (A) by striking “National Imagery and Mapping  
20 Agency” each place it appears and inserting “National  
21 Geospatial-Intelligence Agency”;

22 (B) by striking “NIMA” each place it appears and  
23 inserting “NGA”; and

24 (C) by striking “NIMA’s” in subsection  
25 (a)(6)(B)(iv)(II) and inserting “NGA’s”.

26 (5) Section 106 (50 U.S.C. 403–6) is amended by  
27 striking “National Imagery and Mapping Agency” in sub-  
28 section (a)(2)(C) and inserting “National Geospatial-Intel-  
29 ligence Agency”.

30 (6) Section 110 (50 U.S.C. 404e) is amended—

31 (A) by striking “National Imagery and Mapping  
32 Agency” in subsections (a), (b), and (c) and inserting  
33 “National Geospatial-Intelligence Agency”; and

34 (B) by striking “NATIONAL IMAGERY AND MAP-  
35 PING AGENCY” in the section heading and inserting  
36 “NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY”.



1 (7) The item relating to section 110 in the table of  
2 contents in the first section is amended to read as follows:

“Sec. 110. National mission of National Geospatial-Intelligence Agency.”.

3 (f) CROSS REFERENCE CORRECTION.—Section 442(d) of  
4 title 10, United States Code, is by striking “section 120(a) of  
5 the National Security Act of 1947” and inserting “section  
6 110(a) of the National Security Act of 1947 (50 U.S.C.  
7 404e(a))”.

8 (g) REFERENCES.—Any reference to the National Imagery  
9 and Mapping Agency in any law, regulation, map, document,  
10 record, or other paper of the United States shall be considered  
11 to be a reference to the National Geospatial-Intelligence Agen-  
12 cy.

13 **SEC. 922. PROTECTION OF OPERATIONAL FILES OF THE**  
14 **NATIONAL SECURITY AGENCY.**

15 (a) PROTECTION OF OPERATIONAL FILES OF NSA.—Title  
16 VII of the National Security Act of 1947 (50 U.S.C. 401 et  
17 seq.) is amended by adding at the end the following new sec-  
18 tion:

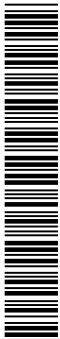
19 “OPERATIONAL FILES OF THE NATIONAL SECURITY AGENCY

20 “SEC. 704. (a) EXEMPTION OF CERTAIN OPERATIONAL  
21 FILES FROM SEARCH, REVIEW, PUBLICATION, OR DISCLO-  
22 SURE.—The Director of the National Security Agency, in co-  
23 ordination with the Director of Central Intelligence, may ex-  
24 empt operational files of the National Security Agency from the  
25 provisions of section 552 of title 5, United States Code, which  
26 require publication, disclosure, search, or review in connection  
27 therewith.

28 “(b) OPERATIONAL FILES DEFINED.—(1) In this section,  
29 the term ‘operational files’ means—

30 “(A) files of the Signals Intelligence Directorate of the  
31 National Security Agency (and any successor organization  
32 of that directorate) that document the means by which for-  
33 eign intelligence or counterintelligence is collected through  
34 technical systems; and

35 “(B) files of the Research Associate Directorate of the  
36 National Security Agency (and any successor organization



1 of that directorate) that document the means by which for-  
2 eign intelligence or counterintelligence is collected through  
3 scientific and technical systems.

4 “(2) Files that are the sole repository of disseminated in-  
5 telligence, and files that have been accessioned into the Na-  
6 tional Security Agency Archives (or any successor organization)  
7 are not operational files.

8 “(c) SEARCH AND REVIEW FOR INFORMATION.—Notwith-  
9 standing subsection (a), exempted operational files shall con-  
10 tinue to be subject to search and review for information con-  
11 cerning any of the following:

12 “(1) United States citizens or aliens lawfully admitted  
13 for permanent residence who have requested information on  
14 themselves pursuant to the provisions of section 552 or  
15 552a of title 5, United States Code.

16 “(2) Any special activity the existence of which is not  
17 exempt from disclosure under the provisions of section 552  
18 of title 5, United States Code.

19 “(3) The specific subject matter of an investigation by  
20 any of the following for any impropriety, or violation of  
21 law, Executive order, or Presidential directive, in the con-  
22 duct of an intelligence activity:

23 “(A) The Committee on Armed Services and the  
24 Permanent Select Committee on Intelligence of the  
25 House of Representatives.

26 “(B) The Committee on Armed Services and the  
27 Select Committee on Intelligence of the Senate.

28 “(C) The Intelligence Oversight Board.

29 “(D) The Department of Justice.

30 “(E) The Office of General Counsel of the Na-  
31 tional Security Agency.

32 “(F) The Office of the Inspector General of the  
33 Department of Defense.

34 “(G) The Office of the Director of the National  
35 Security Agency.

36 “(d) INFORMATION DERIVED OR DISSEMINATED FROM  
37 EXEMPTED OPERATIONAL FILES.—(1) Files that are not ex-



1   empted under subsection (a) that contain information derived  
2   or disseminated from exempted operational files shall be subject  
3   to search and review.

4       “(2) The inclusion of information from exempted oper-  
5   ational files in files that are not exempted under subsection (a)  
6   shall not affect the exemption under subsection (a) of the origi-  
7   nating operational files from search, review, publication, or dis-  
8   closure.

9       “(3) The declassification of some of the information con-  
10   tained in exempted operational files shall not affect the status  
11   of the operational file as being exempt from search, review,  
12   publication, or disclosure.

13       “(4) Records from exempted operational files that have  
14   been disseminated to and referenced in files that are not ex-  
15   empted under subsection (a) and that have been returned to ex-  
16   empted operational files for sole retention shall be subject to  
17   search and review.

18       “(e) SUPERCEDURE OF OTHER LAWS.—The provisions of  
19   subsection (a) may not be superseded except by a provision of  
20   law that is enacted after the date of the enactment of this sec-  
21   tion and that specifically cites and repeals or modifies such pro-  
22   visions.

23       “(f) ALLEGATION; IMPROPER WITHHOLDING OF  
24   RECORDS; JUDICIAL REVIEW.—(1) Except as provided in para-  
25   graph (2), whenever any person who has requested agency  
26   records under section 552 of title 5, United States Code, al-  
27   leges that the National Security Agency has withheld records  
28   improperly because of failure to comply with any provision of  
29   this section, judicial review shall be available under the terms  
30   set forth in section 552(a)(4)(B) of title 5, United States Code.

31       “(2) Judicial review shall not be available in the manner  
32   provided for under paragraph (1) as follows:

33       “(A) In any case in which information specifically au-  
34   thorized under criteria established by an Executive order to  
35   be kept secret in the interests of national defense or foreign  
36   relations is filed with, or produced for, the court by the Na-



1 tional Security Agency, such information shall be examined  
2 ex parte, in camera by the court.

3 “(B) The court shall determine, to the fullest extent  
4 practicable, the issues of fact based on sworn written sub-  
5 missions of the parties.

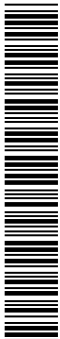
6 “(C) When a complainant alleges that requested  
7 records are improperly withheld because of improper place-  
8 ment solely in exempted operational files, the complainant  
9 shall support such allegation with a sworn written submis-  
10 sion based upon personal knowledge or otherwise admissible  
11 evidence.

12 “(D)(i) When a complainant alleges that requested  
13 records were improperly withheld because of improper ex-  
14 emption of operational files, the National Security Agency  
15 shall meet its burden under section 552(a)(4)(B) of title 5,  
16 United States Code, by demonstrating to the court by  
17 sworn written submission that exempted operational files  
18 likely to contain responsible records currently perform the  
19 functions set forth in subsection (b).

20 “(ii) The court may not order the National Security  
21 Agency to review the content of any exempted operational  
22 file or files in order to make the demonstration required  
23 under clause (i), unless the complainant disputes the Na-  
24 tional Security Agency’s showing with a sworn written sub-  
25 mission based on personal knowledge or otherwise admis-  
26 sible evidence.

27 “(E) In proceedings under subparagraphs (C) and  
28 (D), the parties may not obtain discovery pursuant to rules  
29 26 through 36 of the Federal Rules of Civil Procedure, ex-  
30 cept that requests for admissions may be made pursuant to  
31 rules 26 and 36.

32 “(F) If the court finds under this subsection that the  
33 National Security Agency has improperly withheld re-  
34 quested records because of failure to comply with any pro-  
35 vision of this subsection, the court shall order the Agency  
36 to search and review the appropriate exempted operational  
37 file or files for the requested records and make such





1 records, or portions thereof, available in accordance with  
2 the provisions of section 552 of title 5, United States Code,  
3 and such order shall be the exclusive remedy for failure to  
4 comply with this section (other than subsection (g)).

5 “(G) If at any time following the filing of a complaint  
6 pursuant to this paragraph the National Security Agency  
7 agrees to search the appropriate exempted operational file  
8 or files for the requested records, the court shall dismiss  
9 the claim based upon such complaint.

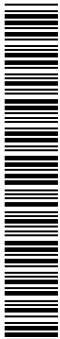
10 “(H) Any information filed with, or produced for the  
11 court pursuant to subparagraphs (A) and (D) shall be co-  
12 ordinated with the Director of Central Intelligence before  
13 submission to the court.

14 “(g) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL  
15 FILES.—(1) Not less than once every 10 years, the Director of  
16 the National Security Agency and the Director of Central Intel-  
17 ligence shall review the exemptions in force under subsection  
18 (a) to determine whether such exemptions may be removed  
19 from a category of exempted files or any portion thereof. The  
20 Director of Central Intelligence must approve any determina-  
21 tion to remove such exemptions.

22 “(2) The review required by paragraph (1) shall include  
23 consideration of the historical value or other public interest in  
24 the subject matter of a particular category of files or portions  
25 thereof and the potential for declassifying a significant part of  
26 the information contained therein.

27 “(3) A complainant that alleges that the National Security  
28 Agency has improperly withheld records because of failure to  
29 comply with this subsection may seek judicial review in the dis-  
30 trict court of the United States of the district in which any of  
31 the parties reside, or in the District of Columbia. In such a  
32 proceeding, the court’s review shall be limited to determining  
33 the following:

34 “(A) Whether the National Security Agency has con-  
35 ducted the review required by paragraph (1) before the ex-  
36 piration of the 10-year period beginning on the date of the  
37 enactment of this section or before the expiration of the 10-



1 year period beginning on the date of the most recent re-  
2 view.

3 “(B) Whether the National Security Agency, in fact,  
4 considered the criteria set forth in paragraph (2) in con-  
5 ducting the required review.”.

6 (b) CONSOLIDATION OF CURRENT PROVISIONS ON PRO-  
7 TECTION OF OPERATIONAL FILES OF CIA.—Title VII of such  
8 Act is further amended—

9 (1) in section 701(b) (50 U.S.C. 431(b)), by striking  
10 “For purposes of this title” and inserting “In this sec-  
11 tion,”; and

12 (2) in section 702 (50 U.S.C. 432)—

13 (A) by striking the section heading;

14 (B) by redesignating the text of that section as  
15 subsection (g) of section 701 and redesignating sub-  
16 sections (a), (b), and (c) thereof as paragraphs (1), (2),  
17 and (3), respectively;

18 (C) by inserting “DECENNIAL REVIEW OF EX-  
19 EMPTED OPERATIONAL FILES.—” after the subsection  
20 designation (as designated by subparagraph (B));

21 (D) in paragraph (1) (as redesignated by subpara-  
22 graph (B)), by striking “of section 701 of this Act”;

23 (E) in paragraph (2) (as redesignated by subpara-  
24 graph (B)), by striking “of subsection (a) of this sec-  
25 tion” and inserting “paragraph (1)”; and

26 (F) in paragraph (3) (as redesignated by subpara-  
27 graph (B))—

28 (i) by striking “with this section” in the first  
29 sentence and inserting “with this subsection”; and

30 (ii) by striking “to determining” in the second  
31 sentence and all that follows and inserting “to de-  
32 termining the following:

33 “(A) Whether the Central Intelligence Agency has con-  
34 ducted the review required by paragraph (1) before October  
35 15, 1994, or before the expiration of the 10-year period be-  
36 ginning on the date of the most recent review.



1 “(B) Whether the Central Intelligence Agency, in fact,  
2 considered the criteria set forth in paragraph (2) in con-  
3 ducting the required review.”.

4 (c) CONSOLIDATION OF CURRENT PROVISIONS ON PRO-  
5TECTION OF OPERATIONAL FILES OF CERTAIN OTHER INTEL-  
6LIGENCE AGENCIES.—The National Security Act of 1947 (50  
7 U.S.C. 401 et seq.) is further amended—

8 (1) by transferring section 105C (50 U.S.C. 403-5c),  
9 as amended by section 921(e)(4), and section 105D (50  
10 U.S.C. 403-5e) to title VII of that Act and inserting them  
11 after section 701, as amended by subsection (b); and

12 (2) by redesignating those sections, as so transferred,  
13 as sections 702 and 703, respectively.

14 (d) CLERICAL AMENDMENTS.—The National Security Act  
15 of 1947 is amended as follows:

16 (1)(A) The heading for title VII is amended to read  
17 as follows:

18 “TITLE VII—PROTECTION OF OPERATIONAL FILES”.

19 (B) The heading for section 701 is amended to read  
20 as follows:

21 “OPERATIONAL FILES OF THE CENTRAL INTELLIGENCE  
22 AGENCY”.

23 (C) The heading for section 702, as transferred and  
24 redesignated by subsection (c), is amended to read as fol-  
25 lows:

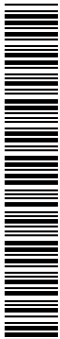
26 “OPERATIONAL FILES OF THE NATIONAL GEOSPATIAL-  
27 INTELLIGENCE AGENCY”.

28 (D) The heading for section 703, as transferred and  
29 redesignated by subsection (c), is amended by striking the  
30 first two words.

31 (2) The table of contents in the first section of the  
32 National Security Act of 1947 is amended—

33 (A) by striking the items relating to sections 105C  
34 and 105D; and

35 (B) by striking the items relating to title VII and  
36 sections 701 and 702 and inserting the following new  
37 items:



## “TITLE VII—PROTECTION OF OPERATIONAL FILES

“Sec. 701. Operational files of the Central Intelligence Agency.

“Sec. 702. Operational files of the National Geospatial-Intelligence Agency.

“Sec. 703. Operational files of the National Reconnaissance Office.

“Sec. 704. Operational files of the National Security Agency.”.

**SEC. 923. INTEGRATION OF DEFENSE INTELLIGENCE,  
SURVEILLANCE, AND RECONNAISSANCE CA-  
PABILITIES**

(a) FINDINGS.—Congress makes the following findings:

(1) As part of transformation efforts within the Department of Defense, each of the Armed Forces is developing intelligence, surveillance, and reconnaissance capabilities that best support future war fighting as envisioned by the leadership of the military department concerned.

(2) Concurrently, intelligence agencies of the Department of Defense outside the military departments are developing transformation roadmaps to best support the future decisionmaking and war fighting needs of their principal customers, but are not always closely coordinating those efforts with the intelligence, surveillance, and reconnaissance development efforts of the military departments.

(3) A senior official of each military department has been designated as the integrator of intelligence, surveillance, and reconnaissance for each of the Armed Forces in such military department, but there is not currently a well-defined forum through which the integrators of intelligence, surveillance, and reconnaissance capabilities for each of the Armed Forces can routinely interact with each other and with senior representatives of Department of Defense intelligence agencies, as well as with other members of the intelligence community, to ensure unity of effort and to preclude unnecessary duplication of effort.

(4) The current funding structure of a National Foreign Intelligence Program (NFIP), Joint Military Intelligence Program (JMIP), and Tactical Intelligence and Related Activities Program (TIARA) may not be the best approach for supporting the development of an intelligence, surveillance, and reconnaissance structure that is inte-



1       grated to meet the national security requirements of the  
2       United States in the 21st century.

3       (5) The position of Under Secretary of Defense for In-  
4       telligence was established in 2002 by Public Law 107–314  
5       in order to facilitate resolution of the challenges to achiev-  
6       ing an integrated intelligence, surveillance, and reconnais-  
7       sance structure in the Department of Defense to meet such  
8       21st century requirements.

9       (b) GOAL.—It shall be a goal of the Department of De-  
10      fense to fully integrate the intelligence, surveillance, and recon-  
11      naissance capabilities and coordinate the developmental activi-  
12      ties of the military departments, intelligence agencies of the  
13      Department of Defense, and relevant combatant commands as  
14      those departments, agencies, and commands transform their in-  
15      telligence, surveillance, and reconnaissance systems to meet  
16      current and future needs.

17      (c) ISR INTEGRATION REQUIREMENTS.—(1) Subchapter I  
18      of chapter 21 of title 10, United States Code, is amended by  
19      adding at the end the following new section:

20      **“§ 426. Integration of Department of Defense intel-**  
21              **ligence, surveillance, and reconnaissance**  
22              **capabilities**

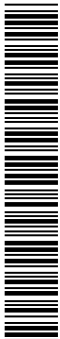
23      “(a) ISR INTEGRATION COUNCIL.—(1) The Under Sec-  
24      retary of Defense for Intelligence shall establish an Intelligence,  
25      Surveillance, and Reconnaissance Integration Council—

26              “(A) to assist the Under Secretary with respect to  
27              matters relating to the integration of intelligence, surveil-  
28              lance, and reconnaissance capabilities, and coordination of  
29              related developmental activities, of the military depart-  
30              ments, intelligence agencies of the Department of Defense,  
31              and relevant combatant commands; and

32              “(B) otherwise to provide a means to facilitate the in-  
33              tegration of such capabilities and the coordination of such  
34              developmental activities.

35      “(2) The Council shall be composed of—

36              “(A) the senior intelligence officers of the armed  
37              forces and the United States Special Operations Command;



1 “(B) the Director of Operations of the Joint Staff;  
2 and

3 “(C) the directors of the intelligence agencies of the  
4 Department of Defense.

5 “(3) The Under Secretary of Defense for Intelligence shall  
6 invite the participation of the Director of Central Intelligence  
7 (or that Director’s representative) in the proceedings of the  
8 Council.

9 “(b) ISR INTEGRATION ROADMAP.—(1) The Under Sec-  
10 retary of Defense for Intelligence shall develop a comprehensive  
11 plan, to be known as the ‘Defense Intelligence, Surveillance,  
12 and Reconnaissance Integration Roadmap’, to guide the devel-  
13 opment and integration of the Department of Defense intel-  
14 ligence, surveillance, and reconnaissance capabilities for the 15-  
15 year period of fiscal years 2004 through 2018.

16 “(2) The Under Secretary shall develop the Defense Intel-  
17 ligence, Surveillance, and Reconnaissance Integration Roadmap  
18 in consultation with the Intelligence, Surveillance, and Recon-  
19 naissance Integration Council and the Director of Central In-  
20 telligence.”.

21 (2) The table of sections at the beginning of such sub-  
22 chapter is amended by adding at the end the following new  
23 item:

“426. Integration of Department of Defense intelligence, surveillance, and  
reconnaissance capabilities.”.

24 (d) REPORT.—(1) Not later than September 30, 2004, the  
25 Under Secretary of Defense for Intelligence shall submit to the  
26 committees of Congress specified in paragraph (2) a report on  
27 the Defense Intelligence, Surveillance, and Reconnaissance In-  
28 tegration Roadmap developed under subsection (b) of section  
29 426 of title 10, United States Code, as added by subsection (c).  
30 The report shall include the following matters:

31 (A) The fundamental goals established in the road-  
32 map.

33 (B) An overview of the intelligence, surveillance, and  
34 reconnaissance integration activities of the military depart-



1       ments and the intelligence agencies of the Department of  
2       Defense.

3       (C) An investment strategy for achieving—

4           (i) an integration of Department of Defense intel-  
5       ligence, surveillance, and reconnaissance capabilities  
6       that ensures sustainment of needed tactical and oper-  
7       ational efforts; and

8           (ii) efficient investment in new intelligence, sur-  
9       veillance, and reconnaissance capabilities.

10       (D) A discussion of how intelligence gathered and ana-  
11       lyzed by the Department of Defense can enhance the role  
12       of the Department of Defense in fulfilling its homeland se-  
13       curity responsibilities.

14       (E) A discussion of how counterintelligence activities  
15       of the Armed Forces and the Department of Defense intel-  
16       ligence agencies can be better integrated.

17       (F) Recommendations on how annual funding author-  
18       izations and appropriations can be optimally structured to  
19       best support the development of a fully integrated Depart-  
20       ment of Defense intelligence, surveillance, and reconnais-  
21       sance architecture.

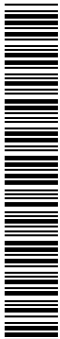
22       (2) The committees of Congress referred to in paragraph  
23       (1) are as follows:

24           (A) The Committee on Armed Services, the Committee  
25       on Appropriations, and the Select Committee on Intel-  
26       ligence of the Senate.

27           (B) The Committee on Armed Services, the Committee  
28       on Appropriations, and the Permanent Select Committee  
29       on Intelligence of the House of Representatives.

30       **SEC. 924. MANAGEMENT OF NATIONAL SECURITY AGEN-**  
31       **CY MODERNIZATION PROGRAM.**

32       (a) MANAGEMENT OF ACQUISITION PROGRAMS THROUGH  
33       USD(AT&L).—(1) The Secretary of Defense shall direct that,  
34       effective as of the date of the enactment of this Act, acqui-  
35       sitions under the National Security Agency Modernization Pro-  
36       gram shall be directed and managed by the Under Secretary  
37       of Defense for Acquisition, Technology, and Logistics.



1 (b) APPLICABILITY OF MAJOR DEFENSE ACQUISITION  
2 PROGRAM AUTHORITIES.—(1) Each project designated as a  
3 major defense acquisition program under paragraph (2) shall  
4 be managed under the laws, policies, and procedures that are  
5 applicable to major defense acquisition programs (as defined in  
6 section 2430 of title 10, United States Code).

7 (2) The Secretary of Defense (acting through the Under  
8 Secretary of Defense for Acquisition, Technology, and Logis-  
9 tics) shall designate those projects under the National Security  
10 Agency Modernization Program that are to be managed as  
11 major defense acquisition programs.

12 (c) MILESTONE DECISION AUTHORITY.—(1) The author-  
13 ity to make a decision that a program is authorized to proceed  
14 from one milestone stage into another (referred to as the mile-  
15 stone decision authority) may only be exercised by the Under  
16 Secretary of Defense for Acquisition, Technology, and Logistics  
17 for the following:

18 (A) Each project of the National Security Agency  
19 Modernization Program that is to be managed as major de-  
20 fense acquisition program, as designated under subsection  
21 (b).

22 (B) Each major system under the National Security  
23 Agency Modernization Program.

24 (2) The limitation in paragraph (1) shall terminate on,  
25 and the Under Secretary may delegate the milestone decision  
26 authority referred to in paragraph (1) to the Director of the  
27 National Security Agency at any time after, the date that is  
28 the later of—

29 (A) September 30, 2005, or

30 (B) the date on which the Under Secretary submits to  
31 the appropriate committees of Congress a notification de-  
32 scribed in paragraph (3).

33 (3) A notification described in this paragraph is a notifica-  
34 tion by the Under Secretary of the Under Secretary's intention  
35 to delegate the milestone decision authority referred to in para-  
36 graph (1) to the Director of the National Security Agency, to-





1     gether with a detailed discussion of the justification for that  
2     delegation. Such a notification may not be submitted until—

3             (A) the Under Secretary has determined (after con-  
4             sultation with the Under Secretary of Defense for Intel-  
5             ligence and the Deputy Director of Central Intelligence for  
6             Community Management) that the Director has imple-  
7             mented acquisition management policies, procedures, and  
8             practices that are sufficient to ensure that acquisitions by  
9             the National Security Agency are conducted in a manner  
10            consistent with sound, efficient acquisition practices;

11            (B) the Under Secretary has consulted with the Under  
12            Secretary of Defense for Intelligence and the Deputy Direc-  
13            tor of Central Intelligence for Community Management on  
14            the delegation of such milestone decision authority to the  
15            Director; and

16            (C) the Secretary of Defense has approved the delega-  
17            tion of such milestone decision authority to the Director.

18            (d) PROJECTS COMPRISING PROGRAM.—The National Se-  
19            curity Agency Modernization Program consists of the following  
20            projects of the National Security Agency:

21                (1) The Trailblazer project.

22                (2) The Groundbreaker project.

23                (3) Each cryptological mission management project

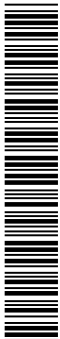
24                (4) Each other project of that Agency that—

25                    (A) meets either of the dollar thresholds in effect  
26                    under paragraph (2) of section 2430(a) of title 10,  
27                    United States Code; and

28                    (B) is determined by the Under Secretary of De-  
29                    fense for Acquisition, Technology, and Logistics as  
30                    being a major project that is within, or properly should  
31                    be within, the National Security Agency Modernization  
32                    Project.

33            (e) DEFINITIONS.—In this section:

34                (1) MAJOR SYSTEM.—The term “major system” has  
35                the meaning given that term in section 2302(5) of title 10,  
36                United States Code.



(2) APPROPRIATE COMMITTEES OF CONGRESS.—The term “appropriate committees of Congress” means the following:

(A) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

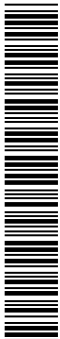
(B) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

**SEC. 925. MODIFICATION OF OBLIGATED SERVICE REQUIREMENTS UNDER NATIONAL SECURITY EDUCATION PROGRAM.**

(a) IN GENERAL.—Section 802(b)(2) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902(b)(2)) is amended by striking subparagraphs (A) and (B) and inserting the following new subparagraphs (A) and (B):

“(A) in the case of a recipient of a scholarship, after the recipient’s completion of the study for which scholarship assistance was provided under the program, work in a position in the Department of Defense or other element of the intelligence community that is certified by the Secretary as appropriate to utilize the unique language and region expertise acquired by the recipient pursuant to such study for a period specified by the Secretary, which period shall include one year of service for each year, or portion thereof, for which such scholarship assistance was provided; or

“(B) in the case of a recipient of a fellowship, after the recipient’s completion of the study for which the fellowship assistance was provided under the program, work in a position described in subparagraph (A) that is certified by the Secretary as appropriate to utilize the unique language and region expertise acquired by the recipient pursuant to such study for a period specified by the Secretary, which period shall (at the discretion of the Secretary) include not less than one nor more than three years for each year, or portion



1           thereof, for which such fellowship assistance was pro-  
2           vided; and”.

3           (b) APPLICABILITY.—(1) The amendment made by sub-  
4           section (a) shall apply with respect to service agreements en-  
5           tered into under the David L. Boren National Security Edu-  
6           cation Act of 1991 on or after the date of the enactment of  
7           this Act.

8           (2) The amendment made by subsection (a) shall not af-  
9           fect the force, validity, or terms of any service agreement en-  
10          tered into under the David L. Boren National Security Edu-  
11          cation Act of 1991 before the date of the enactment of this Act  
12          that is in force as of that date.

13       **SEC. 926. AUTHORITY TO PROVIDE LIVING QUARTERS**  
14               **FOR CERTAIN STUDENTS IN COOPERATIVE**  
15               **AND SUMMER EDUCATION PROGRAMS OF**  
16               **THE NATIONAL SECURITY AGENCY.**

17          Section 2195 of title 10, United States Code, is amended  
18          by adding at the end the following new subsection:

19          “(d)(1) The Director of the National Security Agency may  
20          provide a qualifying employee of a defense laboratory of that  
21          Agency with living quarters at no charge, or at a rate or charge  
22          prescribed by the Director by regulation, without regard to sec-  
23          tion 5911(c) of title 5.

24          “(2) In this subsection, the term ‘qualifying employee’  
25          means a student who is employed at the National Security  
26          Agency under—

27               “(A) a Student Educational Employment Program of  
28               the Agency conducted under this section or any other provi-  
29               sion of law; or

30               “(B) a similar cooperative or summer education pro-  
31               gram of the Agency that meets the criteria for Federal co-  
32               operative or summer education programs prescribed by the  
33               Office of Personnel Management.”.

34       **SEC. 927. COMMERCIAL IMAGERY INDUSTRIAL BASE.**

35          (a) REQUIREMENT.—Of the total amount authorized to be  
36          appropriated for fiscal year 2004 for the acquisition, proc-  
37          essing, and licensing of imagery from commercial sources (in-



cluding amounts authorized to be appropriated under that title for experimentation related to such imagery), not less than 90 percent shall be used for the following purposes:

(1) Acquisition of space-based imagery from commercial sources.

(2) Support for the development of next-generation commercial imagery satellites.

(3) Support for infrastructure improvements that meet unique requirements related to commercial imagery.

(b) WAIVER.—(1) The Secretary of Defense may waive the requirement in subsection (a) if the Secretary determines that the waiver is in the national security interest of the United States. Any such waiver shall be made in consultation with the Director of Central Intelligence.

(2) If the Secretary makes the waiver authorized by paragraph (1), the Secretary shall, within 30 days of issuing the waiver, submit to the appropriate congressional committees a report that includes the following:

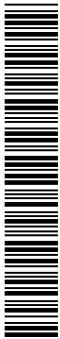
(A) The Secretary's reasons for determining that the waiver is in the national security interest of the United States.

(B) The Secretary's plan for use of the amount referred to in subsection (a).

(c) REPORT ON DEPARTMENT OF DEFENSE IMPLEMENTATION OF PRESIDENT'S COMMERCIAL REMOTE SENSING POLICY.—(1) Not later than March 1, 2004, the Secretary of Defense shall submit to the appropriate congressional committees a report on the actions taken, and to be taken, by the Secretary to implement the President's policy issued on May 13, 2003, with the title "U.S. Commercial Remote Sensing Space Policy". The Secretary shall consult with the Director of Central Intelligence in preparing the report.

(2) The report under paragraph (1) shall include an assessment of the following matters:

(A) The sufficiency for the sustainment of a viable commercial imagery industrial base in the United States of—



1 (i) the President’s policy referred to in paragraph  
2 (1);

3 (ii) the amount provided for the Department of  
4 Defense for fiscal year 2004 for the acquisition of im-  
5 agery from commercial sources; and

6 (iii) the amounts scheduled in the future-years de-  
7 fense program (as of the submission of the report) for  
8 the acquisition of imagery from commercial sources.

9 (B) The extent to which the President’s policy referred  
10 to in paragraph (1) and Department of Defense programs  
11 relating to the procurement of imagery from commercial  
12 sources are sufficient to ensure that imagery is available to  
13 the Department of Defense from United States commercial  
14 sources to meet the needs of the Department of Defense in  
15 a timely manner.

16 (d) APPROPRIATE CONGRESSIONAL COMMITTEES.—For  
17 the purposes of this section, the term “appropriate congres-  
18 sional committees” means—

19 (1) the Committee on Armed Services, the Select Com-  
20 mittee on Intelligence, and the Committee on Appropria-  
21 tions of the Senate; and

22 (2) the Committee on Armed Services, the Permanent  
23 Select Committee on Intelligence, and the Committee on  
24 Appropriations of the House of Representatives.

### 25 **Subtitle D—Other Matters**

#### 26 **SEC. 931. AUTHORITY FOR ASIA-PACIFIC CENTER FOR** 27 **SECURITY STUDIES TO ACCEPT GIFTS AND** 28 **DONATIONS.**

29 (a) AUTHORIZED SOURCES OF GIFTS AND DONATIONS.—  
30 Subsection (a) of section 2611 of title 10, United States Code,  
31 is amended—

32 (1) in paragraph (1), by striking “foreign gifts and do-  
33 nations” and inserting “gifts and donations from sources  
34 described in paragraph (2)”;  
35 (2) by redesignating paragraph (2) as paragraph (3);  
36 and



1 (3) by inserting after paragraph (1) the following new  
2 paragraph (2):

3 “(2) The sources from which gifts and donations may be  
4 accepted under paragraph (1) are the following:

5 “(A) The government of a State or a political subdivi-  
6 sion of a State.

7 “(B) The government of a foreign country.

8 “(C) A foundation or other charitable organization, in-  
9 cluding a foundation or charitable organization that is or-  
10 ganized or operates under the laws of a foreign country.

11 “(D) Any source in the private sector of the United  
12 States or a foreign country.”.

13 (b) CONFORMING AMENDMENTS.—(1) Section 2611 of  
14 such title is further amended—

15 (A) by striking “FOREIGN” in the headings for sub-  
16 sections (a) and (f);

17 (B) in subsection (c), by striking “foreign”; and

18 (C) in subsection (f)—

19 (i) by striking “foreign” after “section, a”; and

20 (ii) by striking “from a foreign” and all that fol-  
21 lows through “country.” and inserting a period.

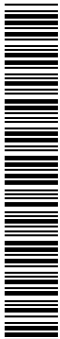
22 (2) Section 184(b)(4) of such title is amended by striking  
23 “foreign”.

24 (c) CLERICAL AMENDMENTS.— The heading of section  
25 2611 of such title, and the item relating to such section in the  
26 table of sections at the beginning of chapter 155 of such title,  
27 are each amended by striking the third word after the colon.

28 (d) CROSS REFERENCE CORRECTION.—Section 2612(a) of  
29 such title is amended by striking “2611(f)” and inserting  
30 “2166(f)(4)”.

31 **SEC. 932. REPEAL OF ROTATING CHAIRMANSHIP OF**  
32 **ECONOMIC ADJUSTMENT COMMITTEE.**

33 Section 4004(b) of the Defense Economic Adjustment, Di-  
34 versification, Conversion, and Stabilization Act of 1990 (divi-  
35 sion D of Public Law 101-510; 10 U.S.C. 2391 note) is  
36 amended—



1 (1) by striking “Until October 1, 1997, the” and in-  
2 serting “The”; and

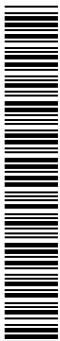
3 (2) by striking the second sentence.

4 **SEC. 933. EXTENSION OF CERTAIN AUTHORITIES APPLI-**  
5 **CABLE TO THE PENTAGON RESERVATION TO**  
6 **INCLUDE A DESIGNATED PENTAGON CON-**  
7 **TINUITY-OF-GOVERNMENT LOCATION.**

8 Section 2674 of title 10, United States Code, is amended  
9 by adding at the end the following new subsection:

10 “(g) For purposes of subsections (b), (c), (d), and (e), the  
11 terms ‘Pentagon Reservation’ and ‘National Capital Region’  
12 shall be treated as including the land and physical facilities at  
13 the Raven Rock Mountain Complex.”.







# 1 TITLE X—GENERAL PROVISIONS

## Subtitle A—Financial Matters

- Sec. 1001. Transfer authority.
- Sec. 1002. United States contribution to NATO common-funded budgets in fiscal year 2004.
- Sec. 1003. Authorization of supplemental appropriations for fiscal year 2003.
- Sec. 1004. Authorization of supplemental appropriations for fiscal year 2004.
- Sec. 1005. Reestablishment of authority for short-term leases of real or personal property across fiscal years.
- Sec. 1006. Reimbursement rate for certain airlift services provided to Department of State.
- Sec. 1007. Limitation on payment of facilities charges assessed by Department of State.
- Sec. 1008. Use of the Defense Modernization Account for life cycle cost reduction initiatives.
- Sec. 1009. Provisions relating to defense travel cards.

## Subtitle B—Naval Vessels and Shipyards

- Sec. 1011. Repeal of requirement regarding preservation of surge capability for naval surface combatants.
- Sec. 1012. Enhancement of authority relating to use for experimental purposes of vessels stricken from Naval Vessel Register.
- Sec. 1013. Transfer of vessels stricken from the Naval Vessel Register for use as artificial reefs.
- Sec. 1014. Priority for Title XI assistance.
- Sec. 1015. Support for transfers of decommissioned vessels and shipboard equipment.
- Sec. 1016. Advanced shipbuilding enterprise.
- Sec. 1017. Report on Navy plans for basing aircraft carriers.
- Sec. 1018. Limitation on disposal of obsolete naval vessel.

## Subtitle C—Counterdrug Matters

- Sec. 1021. Expansion and extension of authority to provide additional support for counter-drug activities.
- Sec. 1022. Authority for joint task forces to provide support to law enforcement agencies conducting counter-terrorism activities.
- Sec. 1023. Use of funds for unified counterdrug and counterterrorism campaign in Colombia.
- Sec. 1024. Sense of Congress on reconsideration of decision to terminate border and seaport inspection duties of National Guard under National Guard drug interdiction and counter-drug mission.

## Subtitle D—Reports

- Sec. 1031. Repeal and modification of various reporting requirements applicable to the Department of Defense.
- Sec. 1032. Plan for prompt global strike capability.
- Sec. 1033. Annual report concerning dismantling of strategic nuclear warheads.
- Sec. 1034. Report on use of unmanned aerial vehicles for support of homeland security missions.



## 10–2

**Subtitle E—Codifications, Definitions, and Technical Amendments**

- Sec. 1041. Codification and revision of defense counterintelligence polygraph program authority.
- Sec. 1042. General definitions applicable to facilities and operations of Department of Defense.
- Sec. 1043. Additional definitions for purposes of title 10, United States Code.
- Sec. 1044. Inclusion of annual military construction authorization request in annual defense authorization request.
- Sec. 1045. Technical and clerical amendments.

**Subtitle F—Other Matters**

- Sec. 1051. Assessment of effects of specified statutory limitations on the granting of security clearances.
- Sec. 1052. Acquisition of historical artifacts through exchange of obsolete or surplus property.
- Sec. 1053. Conveyance of surplus T–37 aircraft to Air Force Aviation Heritage Foundation, Incorporated.
- Sec. 1054. Department of Defense biennial strategic plan for management of electromagnetic spectrum.
- Sec. 1055. Revision of Department of Defense directive relating to management and use of radio frequency spectrum.
- Sec. 1056. Sense of Congress on deployment of airborne chemical agent monitoring systems at chemical stockpile disposal sites in the United States.
- Sec. 1057. Expansion of pre-September 11, 2001, fire grant program of United States Fire Administration.
- Sec. 1058. Review and enhancement of existing authorities for using Air Force and Air National Guard Modular Airborne Fire-Fighting Systems and other Department of Defense assets to fight wildfires.

**Subtitle A—Financial Matters****SEC. 1001. TRANSFER AUTHORITY.****(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1)**

Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 2004 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed \$2,500,000,000.



## 10-3

1 (b) LIMITATIONS.—The authority provided by this section  
2 to transfer authorizations—

3 (1) may only be used to provide authority for items  
4 that have a higher priority than the items from which au-  
5 thority is transferred; and

6 (2) may not be used to provide authority for an item  
7 that has been denied authorization by Congress.

8 (c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer  
9 made from one account to another under the authority of this  
10 section shall be deemed to increase the amount authorized for  
11 the account to which the amount is transferred by an amount  
12 equal to the amount transferred.

13 (d) NOTICE TO CONGRESS.—The Secretary shall promptly  
14 notify Congress of each transfer made under subsection (a).

15 **SEC. 1002. UNITED STATES CONTRIBUTION TO NATO**  
16 **COMMON-FUNDED BUDGETS IN FISCAL YEAR**  
17 **2004.**

18 (a) FISCAL YEAR 2004 LIMITATION.—The total amount  
19 contributed by the Secretary of Defense in fiscal year 2004 for  
20 the common-funded budgets of NATO may be any amount up  
21 to, but not in excess of, the amount specified in subsection (b)  
22 (rather than the maximum amount that would otherwise be ap-  
23 plicable to those contributions under the fiscal year 1998 base-  
24 line limitation).

25 (b) TOTAL AMOUNT.—The amount of the limitation appli-  
26 cable under subsection (a) is the sum of the following:

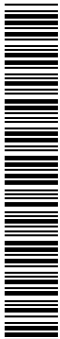
27 (1) The amounts of unexpended balances, as of the  
28 end of fiscal year 2003, of funds appropriated for fiscal  
29 years before fiscal year 2004 for payments for those budg-  
30 ets.

31 (2) The amount specified in subsection (c)(1).

32 (3) The amount specified in subsection (c)(2).

33 (4) The total amount of the contributions authorized  
34 to be made under section 2501.

35 (c) AUTHORIZED AMOUNTS.—Amounts authorized to be  
36 appropriated by titles II and III of this Act are available for



1 contributions for the common-funded budgets of NATO as fol-  
2 lows:

3 (1) Of the amount provided in section 201(1),  
4 \$853,000 for the Civil Budget.

5 (2) Of the amount provided in section 301(1),  
6 \$207,125,000 for the Military Budget.

7 (d) DEFINITIONS.—For purposes of this section:

8 (1) COMMON-FUNDED BUDGETS OF NATO.—The term  
9 “common-funded budgets of NATO” means the Military  
10 Budget, the Security Investment Program, and the Civil  
11 Budget of the North Atlantic Treaty Organization (and any  
12 successor or additional account or program of NATO).

13 (2) FISCAL YEAR 1998 BASELINE LIMITATION.—The  
14 term “fiscal year 1998 baseline limitation” means the max-  
15 imum annual amount of Department of Defense contribu-  
16 tions for common-funded budgets of NATO that is set  
17 forth as the annual limitation in section 3(2)(C)(ii) of the  
18 resolution of the Senate giving the advice and consent of  
19 the Senate to the ratification of the Protocols to the North  
20 Atlantic Treaty of 1949 on the Accession of Poland, Hun-  
21 gary, and the Czech Republic (as defined in section 4(7)  
22 of that resolution), approved by the Senate on April 30,  
23 1998.

24 **SEC. 1003. AUTHORIZATION OF SUPPLEMENTAL APPRO-**  
25 **PRIATIONS FOR FISCAL YEAR 2003.**

26 (a) DOD AND DOE AUTHORIZATIONS.—Amounts author-  
27 ized to be appropriated to the Department of Defense and the  
28 Department of Energy for fiscal year 2003 in the Bob Stump  
29 National Defense Authorization Act for Fiscal Year 2003 (Pub-  
30 lic Law 107-314) are hereby adjusted, with respect to any such  
31 authorized amount, by the amount by which appropriations  
32 pursuant to such authorization are increased (by a supple-  
33 mental appropriation) or decreased (by a rescission), or both,  
34 or are increased by a transfer of funds, pursuant to title I of  
35 Public Law 108-11.

36 (b) REPORT ON FISCAL YEAR 2003 TRANSFERS.—Not  
37 later than 30 days after the end of each fiscal quarter for



1 which unexpended balances of funds appropriated under title I  
2 of Public Law 108–11 are available for the Department of De-  
3 fense, the Secretary of Defense shall submit to the congres-  
4 sional defense committees a report stating, for each transfer of  
5 such funds during such fiscal quarter of an amount provided  
6 for the Department of Defense through a so-called “transfer  
7 account”, including the Iraqi Freedom Fund or any other simi-  
8 lar account—

9 (1) the amount of the transfer;

10 (2) the appropriation account to which the transfer  
11 was made; and

12 (3) the specific purpose for which the transferred  
13 funds were used or are to be used.

14 **SEC. 1004. AUTHORIZATION OF SUPPLEMENTAL APPRO-**  
15 **PRIATIONS FOR FISCAL YEAR 2004.**

16 (a) DEPARTMENT OF DEFENSE AUTHORIZATIONS.—  
17 Amounts authorized to be appropriated to the Department of  
18 Defense for fiscal year 2004 in this Act are hereby increased,  
19 with respect to any such amount, by the amount by which the  
20 corresponding appropriation account of the Department of De-  
21 fense for fiscal year 2004 is increased by a supplemental appro-  
22 priation, or by a transfer of funds, pursuant to title I of the  
23 Emergency Supplemental Appropriations Act for Defense and  
24 for the Reconstruction of Iraq and Afghanistan, 2004.

25 (b) DESIGNATION AS EMERGENCY.—Amounts by which  
26 authorizations of appropriations are increased in accordance  
27 with subsection (a) are designated as emergency requirements  
28 pursuant to section 502 of House Concurrent Resolution 95 of  
29 the 108th Congress.

30 **SEC. 1005. REESTABLISHMENT OF AUTHORITY FOR**  
31 **SHORT-TERM LEASES OF REAL OR PER-**  
32 **SONAL PROPERTY ACROSS FISCAL YEARS.**

33 (a) REESTABLISHMENT OF AUTHORITY.—Subsection (a)  
34 of section 2410a of title 10, United States Code, is amended—

35 (1) by inserting “(1)” before “The Secretary of De-  
36 fense”;



## 10–6

1 (2) by striking “for procurement of severable services”  
2 and inserting “for a purpose described in paragraph (2)”;  
3 and

4 (3) by adding at the end the following new paragraph:  
5 “(2) The purpose of a contract described in this paragraph  
6 is as follows:

7 “(A) The procurement of severable services.

8 “(B) The lease of real or personal property, including  
9 the maintenance of such property when contracted for as  
10 part of the lease agreement.”.

11 (b) CLERICAL AMENDMENTS.—(1) The heading of such  
12 section is amended to read as follows:

13 **“§ 2410a. Contracts for periods crossing fiscal**  
14 **years: severable service contracts; leases**  
15 **of real or personal property”.**

16 (2) The item relating to such section in the table of sec-  
17 tions at the beginning of chapter 141 of such title is amended  
18 to read as follows:

“2410a. Contracts for periods crossing fiscal years: severable service con-  
tracts; leases of real or personal property.”.

19 (c) EFFECTIVE DATE.—The amendments made by this  
20 section shall not apply to funds appropriated for a fiscal year  
21 before fiscal year 2004.

22 **SEC. 1006. REIMBURSEMENT RATE FOR CERTAIN AIR-**  
23 **LIFT SERVICES PROVIDED TO DEPARTMENT**  
24 **OF STATE.**

25 (a) AUTHORITY.—Subsection (a) of section 2642 of title  
26 10, United States Code, is amended—

27 (1) by striking “(a) AUTHORITY” and all that follows  
28 through “the Department of Defense” the second place it  
29 appears and inserting the following:

30 “(a) AUTHORITY.—The Secretary of Defense may author-  
31 ize the use of the Department of Defense reimbursement rate  
32 for military airlift services provided by a component of the De-  
33 partment of Defense as follows:

34 “(1) For military airlift services provided”; and

35 (2) by adding at the end the following new paragraph:



1 “(2) For military airlift services provided to the De-  
2 partment of State for the transportation of armored motor  
3 vehicles to a foreign country to meet requirements of the  
4 Department of State for armored motor vehicles associated  
5 with the overseas travel of the Secretary of State in that  
6 country.”.

7 (b) CLERICAL AMENDMENTS.—(1) The heading for such  
8 section is amended to read as follows:

9 **“§ 2642. Airlift services provided to certain other**  
10 **agencies: use of Department of Defense re-**  
11 **imbursement rate”.**

12 (2) The item relating to such section in the table of sec-  
13 tions at the beginning of chapter 157 of such title is amended  
14 to read as follows:

“2642. Airlift services provided to certain other agencies: use of Department  
of Defense reimbursement rate.”.

15 **SEC. 1007. LIMITATION ON PAYMENT OF FACILITIES**  
16 **CHARGES ASSESSED BY DEPARTMENT OF**  
17 **STATE.**

18 (a) COSTS OF GOODS AND SERVICES PROVIDED TO DE-  
19 PARTMENT OF STATE.—Funds appropriated for the Depart-  
20 ment of Defense may be transferred to the Department of  
21 State as remittance for a fee charged to the Department of De-  
22 fense by the Department of State for any year for the mainte-  
23 nance, upgrade, or construction of United States diplomatic fa-  
24 cilities only to the extent that the amount charged (when added  
25 to other amounts previously so charged for that fiscal year) ex-  
26 ceeds the total amount of the unreimbursed costs incurred by  
27 the Department of Defense during that year in providing goods  
28 and services to the Department of State.

29 (b) EFFECTIVE DATE.—Subsection (a) shall take effect as  
30 of October 1, 2003.

31 **SEC. 1008. USE OF THE DEFENSE MODERNIZATION AC-**  
32 **COUNT FOR LIFE CYCLE COST REDUCTION**  
33 **INITIATIVES.**

34 (a) FUNDS AVAILABLE FOR DEFENSE MODERNIZATION  
35 ACCOUNT.—Section 2216 of title 10, United States Code is  
36 amended—



## 10–8

1 (1) by striking subsection (c);  
2 (2) by redesignating subsection (b) as subsection (c);  
3 and

4 (3) by inserting after subsection (a) the following new  
5 subsection (b):

6 “(b) FUNDS AVAILABLE FOR ACCOUNT.—The Defense  
7 Modernization Account shall consist of the following:

8 “(1) Amounts appropriated to the Defense Moderniza-  
9 tion Account for the costs of commencing projects de-  
10 scribed in subsection (d)(1), and amounts reimbursed to  
11 the Defense Modernization Account under subsections  
12 (c)(1)(B)(iii) out of savings derived from such projects.

13 “(2) Amounts transferred to the Defense Moderniza-  
14 tion Account under subsection (c).”.

15 (b) START-UP FUNDING.—Subsection (d) of such section  
16 is amended—

17 (1) by striking “available from the Defense Moderniza-  
18 tion Account pursuant to subsection (f) or (g)” and insert-  
19 ing “in the Defense Modernization Account”;

20 (2) by redesignating paragraphs (1) and (2) as para-  
21 graphs (2) and (3), respectively; and

22 (3) by inserting after “purposes:” the following new  
23 paragraph (1):

24 “(1) For paying the costs of commencing any project  
25 that, in accordance with criteria prescribed by the Sec-  
26 retary of Defense, is undertaken by the Secretary of a mili-  
27 tary department or the head of a Defense Agency or other  
28 element of the Department of Defense to reduce the life  
29 cycle cost of a new or existing system.”.

30 (c) REIMBURSEMENT OF ACCOUNT OUT OF SAVINGS.—(1)  
31 Paragraph (1)(B) of subsection (c) of such section, as redesign-  
32 ated by subsection (a)(2), is amended by adding at the end  
33 the following new clause:

34 “(iii) Unexpired funds in appropriations accounts that  
35 are available for procurement or operation and mainte-  
36 nance of a system, if and to the extent that savings are  
37 achieved for such accounts through reductions in life cycle





## 10–9

1 costs of such system that result from one or more projects  
2 undertaken with respect to such systems with funds made  
3 available from the Defense Modernization Account under  
4 subsection (b)(1).”.

5 (2) Paragraph (2) of such subsection is amended by in-  
6 serting “, other than funds referred to in subparagraph (B)(iii)  
7 of such paragraph,” after “Funds referred to in paragraph  
8 (1)”.

9 (d) REGULATIONS.—Subsection (h) of such section is  
10 amended—

11 (1) by inserting “(1)” after “COMPTROLLER.—”; and

12 (2) by adding at the end the following new paragraph  
13 (2):

14 “(2) The regulations prescribed under paragraph (1) shall,  
15 at a minimum, provide for—

16 “(A) the submission of proposals by the Secretaries  
17 concerned or heads of Defense Agencies or other elements  
18 of the Department of Defense to the Comptroller for the  
19 use of Defense Modernization Account funds for purposes  
20 set forth in subsection (d);

21 “(B) the use of a competitive process for the evalua-  
22 tion of such proposals and the selection of programs,  
23 projects, and activities to be funded out of the Defense  
24 Modernization Account from among those proposed for  
25 such funding; and

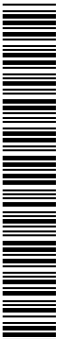
26 “(C) the calculation of—

27 “(i) the savings to be derived from projects de-  
28 scribed in subsection (d)(1) that are to be funded out  
29 of the Defense Modernization Account; and

30 “(ii) the amounts to be reimbursed to the Defense  
31 Modernization Account out of such savings pursuant to  
32 subsection (c)(1)(B)(iii).”.

33 (e) ANNUAL REPORT.—Subsection (i) of such section is  
34 amended—

35 (1) by striking “QUARTERLY REPORTS.—(1) Not later  
36 than 15 days after the end of each calendar quarter,” and



## 10–10

1 inserting “ANNUAL REPORT.—(1) Not later than 15 days  
2 after the end of each fiscal year,”; and

3 (2) in paragraph (1), by striking “quarter” in sub-  
4 paragraphs (A), (B), and (C), and inserting “fiscal year”.

5 (f) CODIFICATION AND EXTENSION OF EXPIRATION OF  
6 AUTHORITY.—(1) Such section is further amended by adding  
7 at the end the following new subsection:

8 “(k) EXPIRATION OF AUTHORITY AND ACCOUNT.—(1)  
9 The authority under subsection (c) to transfer funds into the  
10 Defense Modernization Account terminates at the close of Sep-  
11 tember 30, 2006.

12 “(2) Three years after the termination date specified in  
13 paragraph (1), the Defense Modernization Account shall be  
14 closed and any remaining balance in the account shall be can-  
15 celed and thereafter shall not be available for any purpose.”.

16 (2) Subsection (c) of section 912 of the National Defense  
17 Authorization Act for Fiscal Year 1996 (Public Law 104–106;  
18 110 Stat. 410; 10 U.S.C. 2216 note) is repealed.

19 **SEC. 1009. PROVISIONS RELATING TO DEFENSE TRAVEL**  
20 **CARDS.**

21 (a) MANDATORY DISBURSEMENT OF TRAVEL ALLOW-  
22 ANCES DIRECTLY TO TRAVEL CARD CREDITORS.—Section  
23 2784a(a) of title 10, United States Code, is amended—

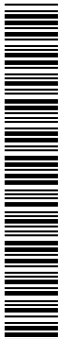
24 (1) in paragraph (1), by striking “The Secretary of  
25 Defense may require” and inserting “The Secretary of De-  
26 fense shall require”;

27 (2) by redesignating paragraph (2) as paragraph (3);  
28 and

29 (3) by inserting after paragraph (1) the following new  
30 paragraph (2):

31 “(2) The Secretary of Defense may waive the requirement  
32 for a direct payment to a travel care issuer under paragraph  
33 (1) in any case the Secretary determines appropriate.”.

34 (b) DETERMINATIONS OF CREDITWORTHINESS FOR  
35 ISSUANCE OF DEFENSE TRAVEL CARD.—Section 2784a of title  
36 10, United States Code, is amended—



## 10–11

1 (1) by redesignating subsections (d) and (e) as sub-  
2 sections (f) and (g), respectively; and

3 (2) by inserting after subsection (c) the following new  
4 subsection (d):

5 “(d) DETERMINATIONS OF CREDITWORTHINESS FOR  
6 ISSUANCE OF DEFENSE TRAVEL CARD.—(1) The Secretary of  
7 Defense shall evaluate the creditworthiness of an employee of  
8 the Department of Defense or a member of armed forces before  
9 issuing a Defense travel card to such an employee or member.  
10 The evaluation may include an examination of the individual’s  
11 credit history in available credit records.

12 “(2) An individual may not be issued a Defense travel  
13 card if the individual is found not creditworthy as a result of  
14 the evaluation required under paragraph (1).”.

15 (c) DISCIPLINARY ACTIONS AND ASSESSING PENALTIES  
16 FOR MISUSE OF DEFENSE TRAVEL CARDS.—

17 (1) REQUIREMENT FOR REGULATIONS.—Section  
18 2784a of title 10, United States Code, is further amended  
19 by inserting after subsection (d) (as added by subsection  
20 (b)) the following new subsection (e):

21 “(e) REGULATIONS ON DISCIPLINARY ACTION.—(1) The  
22 Secretary of Defense shall prescribe regulations for making de-  
23 terminations regarding the taking of disciplinary action, includ-  
24 ing assessment of penalties, against Department of Defense  
25 personnel for improper, fraudulent, or abusive use of Defense  
26 travel cards by such personnel.

27 “(2) The regulations prescribed under paragraph (1)  
28 shall—

29 “(A) provide for appropriate adverse personnel actions  
30 or other punishment to be imposed in cases in which em-  
31 ployees of the Department of Defense violate such regula-  
32 tions or are negligent or engage in misuse, abuse, or fraud  
33 with respect to a Defense travel card, including removal in  
34 appropriate cases; and

35 “(B) provide that a violation of such regulations by a  
36 person subject to chapter 47 of this title (the Uniform  
37 Code of Military Justice) is punishable as a violation of



## 10–12

1 section 892 of this title (article 92 of the Uniform Code of  
2 Military Justice).”.

3 (2) REPORT.—Not later than February 1, 2004, the  
4 Secretary of Defense shall submit to the Committees on  
5 Armed Services of the Senate and the House of Represent-  
6 atives a report on the regulations prescribed under section  
7 2784a(e) of title 10, United States Code, as added by para-  
8 graph (1). The report shall include the following:

9 (A) The regulations.

10 (B) A discussion of the implementation of the reg-  
11 ulations.

12 (C) A discussion of any additional administrative  
13 action, or any recommended legislation, that the Sec-  
14 retary considers necessary to effectively take discipli-  
15 nary action against and penalize Department of De-  
16 fense personnel for improper, fraudulent, or abusive  
17 use of Defense travel cards by such personnel.

18 (3) DEFENSE TRAVEL CARD DEFINED.—In this sub-  
19 section, the term “Defense travel card” has the meaning  
20 given such term in section 2784a(f)(1) of title 10, United  
21 States Code (as redesignated by subsection (b)).

22 **Subtitle B—Naval Vessels and Shipyards**

23 **SEC. 1011. REPEAL OF REQUIREMENT REGARDING**  
24 **PRESERVATION OF SURGE CAPABILITY FOR**  
25 **NAVAL SURFACE COMBATANTS.**

26 (a) REPEAL.—Section 7296 of title 10, United States  
27 Code, is amended by striking subsection (b).

28 (b) CLERICAL AMENDMENTS.—Such section is further  
29 amended—

30 (1) by striking “(3) Any notification under paragraph  
31 (1)(A)” and inserting “(b) CONTENT OF NOTIFICATION.—  
32 Any notification under subsection (a)(1)(A)”;

33 (2) by redesignating subparagraphs (A), (B), and (C)  
34 of subsection (b) (as redesignated by paragraph (1)) as  
35 paragraphs (1), (2), and (3), respectively; and



## 10–13

1 (3) by striking “subparagraph (B)” in subsection  
2 (b)(3) (as redesignated by paragraphs (1) and (2)) and in-  
3 serting “paragraph (2)”.

4 **SEC. 1012. ENHANCEMENT OF AUTHORITY RELATING TO**  
5 **USE FOR EXPERIMENTAL PURPOSES OF VES-**  
6 **SELS STRICKEN FROM NAVAL VESSEL REG-**  
7 **ISTER.**

8 (a) ENVIRONMENTAL REMEDIATION.—Paragraph (1) of  
9 subsection (b) of section 7306a of title 10, United States Code,  
10 is amended—

11 (1) by inserting “AND ENVIRONMENTAL REMEDIATION  
12 OF” in the subsection heading after “STRIPPING”; and

13 (2) by inserting before the period at the end the fol-  
14 lowing: “and such environmental remediation of the vessel  
15 as is required for the use of the vessel for experimental  
16 purposes”.

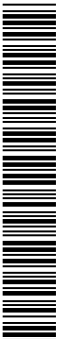
17 (b) SALE OF MATERIAL AND EQUIPMENT STRIPPED FROM  
18 VESSEL.—Subsection (b) of such section is further amended—

19 (1) by redesignating paragraph (2) as paragraph (3);

20 (2) by inserting after paragraph (1) the following new  
21 paragraph (2):

22 “(2) Material and equipment stripped from a vessel under  
23 paragraph (1) may be sold by the contractor or by a sales  
24 agent approved by the Secretary.”; and

25 (3) in paragraph (3), as redesignated by paragraph  
26 (1), by striking “scrapping services” and all that follows  
27 through the end of such subsection and inserting “services  
28 needed for such stripping and for environmental remedi-  
29 ation required for the use of the vessel for experimental  
30 purposes. Amounts received in excess of amounts needed  
31 for reimbursement of those costs shall be deposited into the  
32 account from which the stripping and environmental reme-  
33 diation expenses were incurred and shall be available for  
34 stripping and environmental remediation of other vessels to  
35 be used for experimental purposes.”.



## 10–14

(c) CLARIFICATION OF COVERED EXPERIMENTAL PURPOSES.—Such section is further amended by adding at the end the following new subsection:

“(c) USE FOR EXPERIMENTAL PURPOSES DEFINED.—In this section, the term ‘use for experimental purposes’, with respect to a vessel, includes use of the vessel in a Navy sink exercise or for target purposes.”.

**SEC. 1013. TRANSFER OF VESSELS STRICKEN FROM THE NAVAL VESSEL REGISTER FOR USE AS ARTIFICIAL REEFS.**

(a) AUTHORITY TO MAKE TRANSFER.—Chapter 633 of title 10, United States Code, is amended by inserting after section 7306a the following new section:

**“§ 7306b. Vessels stricken from Naval Vessel Register: transfer by gift or otherwise for use as artificial reefs**

“(a) AUTHORITY TO MAKE TRANSFER.—The Secretary of the Navy may transfer, by gift or otherwise, any vessel stricken from the Naval Vessel Register to any State, Commonwealth, or possession of the United States, or any municipal corporation or political subdivision thereof, for use as provided in subsection (b).

“(b) VESSEL TO BE USED AS ARTIFICIAL REEF.—An agreement for the transfer of a vessel under subsection (a) shall require that—

“(1) the recipient use, site, construct, monitor, and manage the vessel only as an artificial reef in accordance with the requirements of the National Fishing Enhancement Act of 1984 (33 U.S.C. 2101 et seq.), except that the recipient may use the artificial reef to enhance diving opportunities if that use does not have an adverse effect on fishery resources (as that term is defined in section 2(14) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(14)); and

“(2) the recipient obtain, and bear all responsibility for complying with, applicable Federal, State, interstate,



## 10–15

1 and local permits for using, siting, constructing, moni-  
2 toring, and managing the vessel as an artificial reef.

3 “(c) PREPARATION OF VESSEL FOR USE AS ARTIFICIAL  
4 REEF.—The Secretary shall ensure that the preparation of a  
5 vessel transferred under subsection (a) for use as an artificial  
6 reef is conducted in accordance with—

7 “(1) the environmental best management practices de-  
8 veloped pursuant to section 3504(b) of the Bob Stump Na-  
9 tional Defense Authorization Act for Fiscal Year 2003  
10 (Public Law 107–314; 16 U.S.C. 1220 note); and

11 “(2) any applicable environmental laws.

12 “(d) COST SHARING.—The Secretary may share with the  
13 recipient of a vessel transferred under subsection (a) any costs  
14 associated with transferring the vessel under that subsection,  
15 including costs of the preparation of the vessel under sub-  
16 section (c).

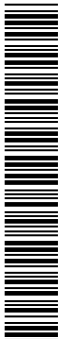
17 “(e) NO LIMITATION ON NUMBER OF VESSELS TRANS-  
18 FERABLE TO PARTICULAR RECIPIENT.—A State, Common-  
19 wealth, or possession of the United States, or any municipal  
20 corporation or political subdivision thereof, may be the recipient  
21 of more than one vessel transferred under subsection (a).

22 “(f) ADDITIONAL TERMS AND CONDITIONS.—The Sec-  
23 retary may require such additional terms and conditions in con-  
24 nection with a transfer authorized by subsection (a) as the Sec-  
25 retary considers appropriate.

26 “(g) CONSTRUCTION.—Nothing in this section shall be  
27 construed to establish a preference for the use as artificial reefs  
28 of vessels stricken from the Naval Vessel Register in lieu of  
29 other authorized uses of such vessels, including the domestic  
30 scrapping of such vessels, or other disposals of such vessels,  
31 under this chapter or other applicable authority.”.

32 (b) CLERICAL AMENDMENT.—The table of sections at the  
33 beginning of such chapter is amended by inserting after the  
34 item relating to section 7306a the following new item:

“7306b. Vessels stricken from Naval Vessel Register: transfer by gift or  
otherwise for use as artificial reefs.”.



1     **SEC. 1014. PRIORITY FOR TITLE XI ASSISTANCE.**

2           (a) IN GENERAL.—Section 1103 of the Merchant Marine  
3     Act, 1936 (46 App. U.S.C. 1273) is amended—

4           (1) in subsection (i) (as added by section 3544 of this  
5     Act) by striking “PRIORITY” and inserting “PRIORITY FOR  
6     NATIONAL DEFENSE TANK VESSELS”; and

7           (2) by adding at the end the following:

8           “(j) PRIORITY FOR OTHER VESSELS SUITABLE FOR SERV-  
9     ICE AS A NAVAL AUXILIARY.—In guaranteeing and entering  
10    commitments to guarantee under this section, the Secretary  
11    shall, after applying subsection (i), give priority to a guarantee  
12    or commitment for a vessel that is otherwise eligible for a guar-  
13    antee under this section and that the Secretary of Defense  
14    determines—

15           “(1) is suitable for service as a naval auxiliary in time  
16    of war or national emergency; and

17           “(2) meets a shortfall in sealift capacity or capa-  
18    bility.”.

19           (b) REPORT.—Within 180 days after the date of the en-  
20    actment of this Act, the Secretary of Transportation and the  
21    Secretary of Defense shall transmit a report to the Senate  
22    Committee on Armed Services, the Senate Committee on Com-  
23    merce, Science, and Transportation, and the House of Rep-  
24    resentatives Committee on Armed Services that—

25           (1) sets forth the criteria to be used by the Secretary  
26    of Defense in making, for purposes of section 1103(j) of  
27    the Merchant Marine Act, 1936 (46 U.S.C. App. 1273(j)),  
28    as amended by this section, the determinations described in  
29    paragraphs (1) and (2) of that section; and

30           (2) describes the procedure that the Secretary of De-  
31    fense will follow—

32           (A) in reviewing applications for which priority  
33    treatment is sought under section 1103(j) of that Act;  
34    and

35           (B) in reporting to the Secretary of Transpor-  
36    tation with respect to such applications.





1   **SEC. 1015. SUPPORT FOR TRANSFERS OF DECOMMIS-**  
2                   **SIONED VESSELS AND SHIPBOARD EQUIP-**  
3                   **MENT.**

4           (a) IN GENERAL.—Chapter 633 of title 10, United States  
5 Code, is amended by adding at the end the following new sec-  
6 tion:

7   **“§ 7316. Support for transfers of decommissioned**  
8                   **vessels and shipboard equipment**

9           “(a) AUTHORITY TO PROVIDE ASSISTANCE.—The Sec-  
10 retary of the Navy may provide an entity described in sub-  
11 section (b) with assistance in support of a transfer of a vessel  
12 or shipboard equipment described in such subsection that is  
13 being executed under section 2572, 7306, 7307, or 7545 of this  
14 title, or under any other authority.

15           “(b) COVERED VESSELS AND EQUIPMENT.—The authority  
16 under this section applies—

17               “(1) in the case of a decommissioned vessel that—

18                   “(A) is owned and maintained by the Navy, is lo-  
19 cated at a Navy facility, and is not in active use; and

20                   “(B) is being transferred to an entity designated  
21 by the Secretary of the Navy or by law to receive trans-  
22 fer of the vessel; and

23               “(2) in the case of any shipboard equipment that—

24                   “(A) is on a vessel described in paragraph (1)(A);  
25 and

26                   “(B) is being transferred to an entity designated  
27 by the Secretary of the Navy or by law to receive trans-  
28 fer of the equipment.

29           “(c) REIMBURSEMENT.—The Secretary may require a re-  
30 cipient of assistance under subsection (a) to reimburse the  
31 Navy for amounts expended by the Navy in providing the as-  
32 sistance.

33           “(d) DEPOSIT OF FUNDS RECEIVED.—Funds received in  
34 a fiscal year under subsection (c) shall be credited to the ap-  
35 propriation available for such fiscal year for operation and  
36 maintenance for the office of the Navy managing inactive ships,  
37 shall be merged with other sums in the appropriation that are



1 available for such office, and shall be available for the same  
2 purposes and period as the sums with which merged.”.

3 (b) CLERICAL AMENDMENT.—The table of sections at the  
4 beginning of such chapter is amended by adding at the end the  
5 following new item:

“7316. Support for transfers of decommissioned vessels and shipboard  
equipment.”.

6 **SEC. 1016. ADVANCED SHIPBUILDING ENTERPRISE.**

7 (a) FINDINGS.—Congress makes the following find-  
8 ings:

9 (1) The President’s budget for fiscal year 2004,  
10 as submitted to Congress, includes \$10,300,000 for  
11 the Advanced Shipbuilding Enterprise of the Na-  
12 tional Shipbuilding Research Program.

13 (2) The Advanced Shipbuilding Enterprise is an  
14 innovative program to encourage greater efficiency  
15 among shipyards in the defense industrial base.

16 (3) The leaders of the Nation’s shipbuilding in-  
17 dustry have embraced the Advanced Shipbuilding  
18 Enterprise as a method of exploring and collabo-  
19 rating on innovation in shipbuilding and ship repair  
20 that collectively benefits all manufacturers in the in-  
21 dustry.

22 (b) SENSE OF THE CONGRESS.—It is the sense of  
23 the Congress that—

24 (1) the Congress strongly supports the innova-  
25 tive Advanced Shipbuilding Enterprise of the Na-



1 tional Shipbuilding Research Program that has  
2 yielded new processes and techniques to reduce the  
3 cost of building and repairing ships in the United  
4 States;

5 (2) the Congress is concerned that the future-  
6 years defense program submitted to Congress for fis-  
7 cal year 2004 does not reflect any funding for the  
8 Advanced Shipbuilding Enterprise after fiscal year  
9 2004; and

10 (3) the Secretary of Defense and the Secretary  
11 of the Navy should continue funding the Advanced  
12 Shipbuilding Enterprise at a sustaining level  
13 through the future-years defense program to support  
14 subsequent rounds of research that reduce the cost  
15 of designing, building, and repairing ships.

16 **SEC. 1017. REPORT ON NAVY PLANS FOR BASING AIR-**  
17 **CRAFT CARRIERS.**

18 (a) FINDINGS.—Congress finds that—

19 (1) the Committee on Armed Services of the Senate,  
20 in its report to accompany the bill S. 2514 of the 107th  
21 Congress (Senate Report 107–151, filed May 15, 2002), at  
22 page 442 of that report directed that the Chief of Naval  
23 Operations submit to the congressional defense committees,  
24 not later than 180 days after enactment of the defense au-  
25 thorization Act for fiscal year 2003, a report on plans of  
26 the Navy for basing aircraft carriers through 2015;

27 (2) the Bob Stump National Defense Authorization  
28 Act for Fiscal Year 2003 (Public Law 107–314) was en-  
29 acted on December 2, 2002; and



1 (3) as of October 24, 2003, the Chief of Naval Oper-  
2 ations has not submitted the report referred to in para-  
3 graph (1).

4 (b) REPORT ON AIRCRAFT CARRIER BASING PLANS.—Not  
5 later than 120 days after the date of the enactment of this Act,  
6 the Secretary of Defense shall submit to the congressional de-  
7 fense committees a report on plans of the Navy for basing air-  
8 craft carriers through 2020.

9 **SEC. 1018. LIMITATION ON DISPOSAL OF OBSOLETE**  
10 **NAVAL VESSEL.**

11 The Secretary of the Navy may not dispose of the decom-  
12 missioned destroyer ex-Forrest Sherman (DD–931) before Oc-  
13 tober 1, 2004, to an entity that is not a nonprofit organization  
14 unless the Secretary first determines that there is no nonprofit  
15 organization that meets the criteria for donation of that vessel  
16 under section 7306(a)(3) of title 10, United States Code.

17 **Subtitle C—Counterdrug Matters**

18 **SEC. 1021. EXPANSION AND EXTENSION OF AUTHORITY**  
19 **TO PROVIDE ADDITIONAL SUPPORT FOR**  
20 **COUNTER-DRUG ACTIVITIES.**

21 (a) GENERAL EXTENSION OF AUTHORITY.—Subsection  
22 (a) of section 1033 of the National Defense Authorization Act  
23 for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1881) is  
24 amended—

25 (1) by inserting “(1)” before “Subject to”;

26 (2) by striking “either or both” and inserting “any”;

27 and

28 (3) by inserting after the second sentence the following  
29 new paragraph:

30 “(2) The authority to provide support to a government  
31 under this section expires September 30, 2006.”.

32 (b) ADDITIONAL GOVERNMENTS ELIGIBLE TO RECEIVE  
33 SUPPORT.—Subsection (b) of such section is amended by add-  
34 ing at the end the following new paragraphs:

35 “(3) The Government of Afghanistan.

36 “(4) The Government of Bolivia.

37 “(5) The Government of Ecuador.



## 10–21

1 “(6) The Government of Pakistan.

2 “(7) The Government of Tajikistan.

3 “(8) The Government of Turkmenistan.

4 “(9) The Government of Uzbekistan.”.

5 (c) TYPES OF SUPPORT.—Subsection (c) of such section is  
6 amended—

7 (1) in paragraph (2), by striking “riverine”; and

8 (2) in paragraph (3), by inserting “or upgrade” after  
9 “maintenance and repair”.

10 (d) MAXIMUM ANNUAL AMOUNT OF SUPPORT.—Sub-  
11 section (e)(2) of such section is amended by striking  
12 “\$20,000,000 during any of the fiscal years 1999 through  
13 2006” and inserting “\$20,000,000 during any of the fiscal  
14 years 1999 through 2003, or \$40,000,000 during any of the  
15 fiscal years 2004 through 2006”.

16 (e) COUNTER-DRUG PLAN.—(1) Subsection (h) of such  
17 section is amended—

18 (A) in the subsection caption, by striking “RIVERINE”;

19 (B) in the matter preceding paragraph (1)—

20 (i) by striking “fiscal year 1998” and inserting  
21 “fiscal year 2004”; and

22 (ii) by striking “riverine”; and

23 (C) by striking “riverine” each place it appears in  
24 paragraphs (2), (7), (8), and (9).

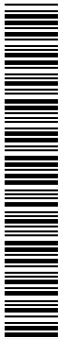
25 (2) Subsection (f)(2)(A) of such section is amended by  
26 striking “riverine”.

27 (f) CLERICAL AND CONFORMING AMENDMENTS.—(1) Sub-  
28 section (b) of such section is further amended

29 (A) in paragraph (1), by striking “, for fiscal years  
30 1998 through 2002”; and

31 (B) in paragraph (2), by striking “, for fiscal years  
32 1998 through 2006”.

33 (2) The heading for such section is amended by striking  
34 “**PERU AND COLOMBIA**” and inserting “**OTHER COUN-**  
35 **TRIES**”.



10–22

1   **SEC. 1022. AUTHORITY FOR JOINT TASK FORCES TO**  
2       **PROVIDE SUPPORT TO LAW ENFORCEMENT**  
3       **AGENCIES CONDUCTING COUNTER-TER-**  
4       **RORISM ACTIVITIES.**

5       (a) **AUTHORITY.**—A joint task force of the Department of  
6   Defense that provides support to law enforcement agencies con-  
7   ducting counter-drug activities may also provide, subject to all  
8   applicable laws and regulations, support to law enforcement  
9   agencies conducting counter-terrorism activities.

10      (b) **CONDITIONS.**—Any support provided under subsection  
11   (a) may only be provided in the geographic area of responsi-  
12   bility of the joint task force.

13   **SEC. 1023. USE OF FUNDS FOR UNIFIED COUNTERDRUG**  
14       **AND COUNTERTERRORISM CAMPAIGN IN CO-**  
15       **LOMBIA.**

16      (a) **AUTHORITY.**—(1) In fiscal year 2004, funds available  
17   to the Department of Defense to provide assistance to the Gov-  
18   ernment of Colombia may be used by the Secretary of Defense  
19   to support a unified campaign by the Government of Colombia  
20   against narcotics trafficking and against activities by organiza-  
21   tions designated as terrorist organizations, such as the Revolu-  
22   tionary Armed Forces of Colombia (FARC), the National Lib-  
23   eration Army (ELN), and the United Self-Defense Forces of  
24   Colombia (AUC).

25      (2) The authority to provide assistance for a campaign  
26   under this subsection includes authority to take actions to pro-  
27   tect human health and welfare in emergency circumstances, in-  
28   cluding the undertaking of rescue operations.

29      (b) **APPLICABILITY OF CERTAIN LAWS AND LIMITA-**  
30       **TIONS.**—The use of funds pursuant to the authority in sub-  
31   section (a) shall be subject to the following:

32          (1) Sections 556, 567, and 568 of the Foreign Oper-  
33       ations, Export Financing, and Related Programs Appro-  
34       priations Act, 2002 (Public Law 107–115; 115 Stat. 2160,  
35       2165, and 2166).

36          (2) Section 8077 of the Department of Defense Appro-  
37       priations Act, 2004 (Public Law 108–87; 115 Stat. 2267).



10-23

1 (3) The numerical limitations on the number of United  
2 States military personnel and United States individual civil-  
3 ian contractors in section 3204(b)(1) of the Emergency  
4 Supplemental Act, 2000 (division B of Public Law 106-  
5 246; 114 Stat. 575), as amended by the Foreign Oper-  
6 ations, Export Financing, and Related Programs Appro-  
7 priations Act, 2002 (Public Law 107-115; 115 Stat.  
8 2131).

9 (c) LIMITATION ON PARTICIPATION OF UNITED STATES  
10 PERSONNEL.—No United States Armed Forces personnel,  
11 United States civilian employees, or United States civilian con-  
12 tractor personnel employed by the United States may partici-  
13 pate in any combat operation in connection with assistance  
14 using funds pursuant to the authority in subsection (a), except  
15 for the purpose of acting in self defense or of rescuing any  
16 United States citizen, including any United States Armed  
17 Forces personnel, United States civilian employee, or civilian  
18 contractor employed by the United States.

19 (d) RELATION TO OTHER AUTHORITY.—The authority  
20 provided by subsection (a) is in addition to any other authority  
21 in law to provide assistance to the Government of Colombia.

22 **SEC. 1024. SENSE OF CONGRESS ON RECONSIDERATION**  
23 **OF DECISION TO TERMINATE BORDER AND**  
24 **SEAPORT INSPECTION DUTIES OF NATIONAL**  
25 **GUARD UNDER NATIONAL GUARD DRUG**  
26 **INTERDICTION AND COUNTER-DRUG MIS-**  
27 **SION.**

28 (a) FINDINGS.—Congress makes the following findings:

29 (1) The counter-drug inspection mission of the Na-  
30 tional Guard is highly important in preventing the entry of  
31 illegal narcotics into the United States.

32 (2) The expertise of members of the National Guard  
33 in conducting vehicle inspections at United States borders  
34 and seaports has contributed to the identification and sei-  
35 zure of illegal narcotics being smuggled into the United  
36 States.

37 (3) The support provided by the National Guard to  
38 the United States Customs Service and the Bureau of Bor-



1 der Security of the Department of Homeland Security  
2 greatly enhances the capability of these agencies to perform  
3 counter-terrorism surveillance and other border protection  
4 duties.

5 (b) SENSE OF CONGRESS.—It is the sense of Congress  
6 that the Secretary of Defense should reconsider the decision of  
7 the Department of Defense to terminate the border inspection  
8 and seaport inspection duties of the National Guard as part of  
9 the drug interdiction and counter-drug mission of the National  
10 Guard.

### 11 Subtitle D—Reports

#### 12 SEC. 1031. REPEAL AND MODIFICATION OF VARIOUS RE- 13 PORTING REQUIREMENTS APPLICABLE TO 14 THE DEPARTMENT OF DEFENSE.

15 (a) TITLE 10, UNITED STATES CODE.—Title 10, United  
16 States Code, is amended as follows:

17 (1) Section 117(e) is amended by striking “each  
18 month” and all that follows through “subsection (d)” and  
19 inserting “each quarter submit to the congressional defense  
20 committees a report in writing containing the results of the  
21 most recent joint readiness review under subsection  
22 (d)(1)(A)”.

23 (2) Section 127(d) is amended to read as follows:

24 “(d) ANNUAL REPORT.—Not later than December 1 each  
25 year, the Secretary of Defense shall submit to the congressional  
26 defense committees a report on expenditures during the pre-  
27 ceding fiscal year under subsections (a) and (b).”.

28 (3) Section 127a is amended by striking subsection  
29 (d).

30 (4) Section 128 is amended by striking subsection (d).

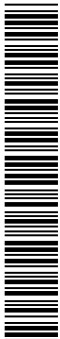
31 (5) Section 226(a) is amended—

32 (A) by striking “December 15” and inserting  
33 “January 15”; and

34 (B) by striking “in the following year” in para-  
35 graph (1) and inserting “in that year”.

36 (6)(A) Section 228 is amended—

37 (i) in subsection (a)—





## 10–25

(I) by striking “MONTHLY” in the subsection heading and inserting “QUARTERLY”;

(II) by striking “monthly” and inserting “quarterly”; and

(III) by striking “month” and inserting “fiscal-year quarter”; and

(ii) in subsection (c), by striking “month” each place it appears and inserting “quarter”.

(B)(i) The heading of such section is amended to read as follows:

**“§ 228. Quarterly reports on allocation of funds within operation and maintenance budget subactivities”.**

(ii) The item relating to section 228 in the table of sections at the beginning of chapter 9 is amended to read as follows:

“228. Quarterly reports on allocation of funds within operation and maintenance budget subactivities.”.

(7) Section 437 is amended—

(A) by striking the second sentence of subsection (b); and

(B) in subsection (c)—

(i) by striking “report)—” in the matter preceding paragraph (1) and inserting “report) the following:”;

(ii) by striking “a” in paragraphs (1), (2), and (3) after the paragraph designation and inserting “A”;

(iii) by striking the semicolon at the end of paragraph (1) and inserting a period;

(iv) by striking “; and” at the end of paragraph (2) and inserting a period; and

(v) by adding at the end the following new paragraph:

“(4) A description of each corporation, partnership, or other legal entity that was established.”.

(8)(A) Section 520c is amended—



## 10-26

- 1 (i) by striking subsection (b);  
2 (ii) by striking “(a) PROVISION OF MEALS AND  
3 REFRESHMENTS.—”; and  
4 (iii) by striking the heading for such section and  
5 inserting the following:

6 **“§ 520c. Recruiting functions: provision of meals**  
7 **and refreshments”.**

8 (B) The item relating to such section in the table of  
9 sections at the beginning of chapter 31 is amended to read  
10 as follows:

“520c. Recruiting functions: provision of meals and refreshments.”.

11 (9) Section 1060 is amended by striking subsection  
12 (d).

13 (10)(A) Section 1130 is amended—

14 (i) in subsection (a), by striking “and the other  
15 determinations necessary to comply with subsection  
16 (b)”; and

17 (ii) in subsection (b), by striking “to the request-  
18 ing” and all that follows and inserting “to the request-  
19 ing Member of Congress a detailed discussion of the ra-  
20 tionale supporting the determination.”.

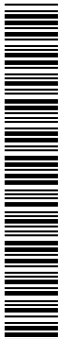
21 (B) The heading for such section, and the item relat-  
22 ing to such section in the table of sections at the beginning  
23 of chapter 57, are each amended by striking the last two  
24 words.

25 (11)(A) Section 1563 is amended—

26 (i) in subsection (a), by striking “and the other  
27 determinations necessary to comply with subsection  
28 (b)”; and

29 (ii) in subsection (b), by striking “notice in writ-  
30 ing” and all that follows and inserting “a detailed dis-  
31 cussion of the rationale supporting the determination.”.

32 (B) The heading for such section, and the item relat-  
33 ing to such section in the table of sections at the beginning  
34 of chapter 80, are each amended by striking the last two  
35 words.



## 10–27

1 (12) Section 2224 is amended by striking subsection  
2 (e).

3 (13) Section 2255(b) is amended—  
4 (A) by striking paragraph (2);  
5 (B) by striking “(1)” after “(b) EXCEPTION.—”;  
6 (C) by redesignating subparagraphs (A) and (B)  
7 as paragraphs (1) and (2), respectively; and  
8 (D) by redesignating clauses (i), (ii), and (iii) of  
9 paragraph (1), as redesignated by subparagraph (C), as  
10 subparagraphs (A), (B), and (C), respectively.

11 (14) Section 2282 is amended by inserting “through  
12 2008” after “March 1 of each year”.

13 (15) Section 2323(i) is amended by striking paragraph  
14 (3).

15 (16) Section 2327(c)(1) is amended—  
16 (A) in subparagraph (A), by striking “after the  
17 date on which such head of an agency submits to Con-  
18 gress a report on the contract” and inserting “if in the  
19 best interests of the Government”;

20 (B) in subparagraph (B), by striking “A report  
21 under subparagraph (A)” and inserting “The Secretary  
22 shall maintain records of each contract entered into by  
23 reason of subparagraph (A). Such records”; and

24 (C) by striking subparagraph (C).

25 (17) Section 2350a is amended by striking subsection  
26 (f).

27 (18) Section 2350j(e)(2) is amended by inserting be-  
28 fore the period the following: “or, if earlier, the end of the  
29 14-day period beginning on the date on which a copy of  
30 that report is provided in an electronic medium pursuant  
31 to section 480 of this title”.

32 (19) Section 2371(h) is amended by adding at the end  
33 the following new paragraph:

34 “(3) No report is required under this subsection for a fis-  
35 cal year after fiscal year 2006.”.

36 (20) Section 2374a(e) is amended by inserting “during  
37 which one or more prizes are awarded under the program



## 10–28

1 under subsection (a)” in the first sentence after “each fis-  
2 cal year”.

3 (21) Section 2410m(c) is amended—

4 (A) by striking “REPORTING REQUIREMENT.—  
5 Each year” and inserting “ANNUAL REPORT.—Not  
6 later than 60 days after the end of each fiscal year”;

7 (B) by inserting “at the end of such fiscal year”  
8 in paragraph (1) before the period;

9 (C) by striking “during the year preceding the  
10 year in which the report is submitted” in paragraph (2)  
11 and inserting “under this section during that fiscal  
12 year”;

13 (D) by striking “in such preceding year” in para-  
14 graph (3) and inserting “under this section during that  
15 fiscal year”; and

16 (E) by striking “in such preceding year” in para-  
17 graph (4) and inserting “under this section during that  
18 fiscal year”.

19 (22) Section 2457 is amended by striking subsection  
20 (d).

21 (23) Section 2515(d) is amended—

22 (A) by striking “ANNUAL” in the subsection head-  
23 ing and inserting “BIENNIAL”; and

24 (B) in paragraph (1)—

25 (i) in the first sentence, by striking “an an-  
26 nual report” and inserting “a biennial report”;

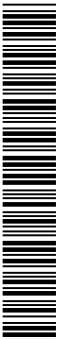
27 (ii) in the second sentence, by striking “each  
28 year” and inserting “each even-numbered year”;  
29 and

30 (iii) in the third sentence, by striking “during  
31 the fiscal year” and inserting “during the two fis-  
32 cal years”.

33 (24) Section 2521 is amended by striking subsection  
34 (e).

35 (25) Section 2541d is amended—

36 (A) by striking subsection (b); and



## 10–29

1 (B) in subsection (a), by striking “(a)” and all  
2 that follows through “The Secretary of Defense” and  
3 inserting “The Secretary of Defense”.

4 (26) Section 2645 is amended—

5 (A) in subsection (d)—

6 (i) by striking “to Congress” and all that fol-  
7 lows through “notification of the loss” in para-  
8 graph (1) and inserting “to Congress notification  
9 of the loss”;

10 (ii) by striking “loss; and” and inserting  
11 “loss.”; and

12 (iii) by striking paragraph (2); and

13 (B) by striking subsection (g).

14 (27) Section 2662 is amended—

15 (A) in subsection (a)—

16 (i) by redesignating paragraphs (1) through  
17 (6) as subparagraphs (A) through (F), respectively,  
18 and by designating the sentences following sub-  
19 paragraph (F), as so redesignated, as paragraph  
20 (2);

21 (ii) in paragraph (2), as so designated, by  
22 striking “clause (1) or (2)” and inserting “sub-  
23 paragraph (A) or (B) of paragraph (1)” and by  
24 striking “clause (5)” and inserting “subparagraph  
25 (E)”;

26 (iii) by inserting “(1)” before “The Sec-  
27 retary”;

28 (iv) by striking “after the expiration of 30  
29 days” and all that follows through “is submitted”  
30 and inserting “the Secretary submits a report, sub-  
31 ject to paragraph (3),”;

32 (v) by striking “\$500,000” each place it ap-  
33 pears and inserting “\$750,000”; and

34 (vi) by adding at the end the following new  
35 paragraphs:



## 10–30

1 “(3) The authority of the Secretary of a military depart-  
2 ment to enter into a transaction described in paragraph (1)  
3 commences only after—

4 “(A) the end of the 30-day period beginning on the  
5 first day of the month with respect to which the report con-  
6 taining the facts concerning such transaction, and all other  
7 such proposed transactions for that month, is submitted  
8 under paragraph (1); or

9 “(B) the end of the 14-day period beginning on the  
10 first day of that month when a copy of the report is pro-  
11 vided in an electronic medium pursuant to section 480 of  
12 this title on or before the first day of that month.

13 “(4) The report for a month under this subsection may  
14 not be submitted later than the first day of that month.”;

15 (B) in subsection (b), by striking “more than” and  
16 all that follows through “\$500,000” and inserting  
17 “more than \$250,000, but not more than \$750,000”;  
18 and

19 (C) in subsection (e)—

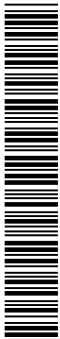
20 (i) by striking “\$500,000” and inserting  
21 “\$750,000”; and

22 (ii) by striking “the expiration” and all that  
23 follows through the period at the end and inserting  
24 the following: “the end of the 30-day period begin-  
25 ning on the date on which a report of the facts con-  
26 cerning the proposed occupancy is submitted to the  
27 congressional committees named in subsection (a)  
28 or, if earlier, the end of the 14-day period begin-  
29 ning on the date on which a copy of the report is  
30 provided in an electronic medium pursuant to sec-  
31 tion 480 of this title.”.

32 (28) Section 2667a(c)(2) is amended—

33 (A) by striking “Not later than 45 days before”  
34 and inserting “Before”; and

35 (B) by adding at the end the following new sen-  
36 tence: “The Secretary may then enter into the lease  
37 only after the end of the 30–day period beginning on



## 10–31

1 the date on which the report is submitted or, if earlier,  
2 the end of the 14-day period beginning on the date on  
3 which a copy of the report is provided in an electronic  
4 medium pursuant to section 480 of this title.”.

5 (29) Section 2672a is amended—

6 (A) in subsection (a)(1), by striking “he or his  
7 designee” and inserting “the Secretary”;

8 (B) in subsection (b), by striking the last sentence;  
9 and

10 (C) by adding at the end the following new sub-  
11 section:

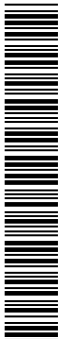
12 “(c) Not later than 10 days after the date on which the  
13 Secretary of a military department determines to acquire an in-  
14 terest in land under the authority of this section, the Secretary  
15 shall submit to the Committee on Armed Services of the Senate  
16 and the Committee on Armed Services of the House of Rep-  
17 resentatives written notice containing a description of the prop-  
18 erty and interest to be acquired and the reasons for the acqui-  
19 sition.”.

20 (30) Section 2676(d) is amended by inserting before  
21 the period at the end of the last sentence the following: “or,  
22 if over sooner, a period of 14 days elapses from the date  
23 on which a copy of that notification is provided in an elec-  
24 tronic medium pursuant to section 480 of this title”.

25 (31) Section 2680 is amended by striking subsection  
26 (e).

27 (32) Section 2688(e) is amended to read as follows:

28 “(e) QUARTERLY REPORT.— Not later than 30 days after  
29 the end of each quarter of a fiscal year, the Secretary shall  
30 submit to the congressional defense committees a report on the  
31 conveyances made under subsection (a) during such fiscal quar-  
32 ter. The report shall include, for each such conveyance, an eco-  
33 nomic analysis (based upon accepted life-cycle costing proce-  
34 dures approved by the Secretary of Defense) demonstrating  
35 that—



## 10–32

1 “(1) the long-term economic benefit of the conveyance  
2 to the United States exceeds the long-term economic cost  
3 of the conveyance to the United States; and

4 “(2) the conveyance will reduce the long-term costs of  
5 the United States for utility services provided by the utility  
6 system concerned.”.

7 (33) Section 2696 is amended—

8 (A) in subsection (b)—

9 (i) in paragraph (1), by inserting “and Con-  
10 gress” after “the Secretary concerned” the second  
11 place it appears; and

12 (ii) in paragraph (2), by inserting “and Con-  
13 gress” after “the Secretary concerned” the first  
14 place it appears;

15 (B) by striking subsection (c); and

16 (C) by striking subsection (d) and inserting the  
17 following new subsection (d):

18 “(d) EFFECT OF SUBMISSION OF NOTICE.—If the Admin-  
19 istrator of General Services submits notice under subsection  
20 (b)(1) that further Federal use of a parcel of real property is  
21 requested by a Federal agency, the Secretary concerned may  
22 not proceed with the conveyance of the real property as pro-  
23 vided in the provision of law authorizing or requiring the con-  
24 veyance until the end of the 180-day period beginning on the  
25 date on which the notice is submitted to Congress.”.

26 (34) Section 2803(b) is amended by inserting before  
27 the period at the end of the last sentence the following: “or,  
28 if earlier, the end of the seven-day period beginning on the  
29 date on which a copy of the notification is provided in an  
30 electronic medium pursuant to section 480 of this title”.

31 (35) Section 2804(b) is amended by inserting before  
32 the period at the end of the last sentence the following: “or,  
33 if earlier, the end of the 14-day period beginning on the  
34 date on which a copy of the notification is provided in an  
35 electronic medium pursuant to section 480 of this title”.

36 (36) Section 2805(b)(2) is amended by inserting be-  
37 fore the period at the end of the last sentence the following:





## 10–33

1 “or, if earlier, the end of the 14–day period beginning on  
2 the date on which a copy of the notification is provided in  
3 an electronic medium pursuant to section 480 of this title”.

4 (37) Section 2807 is amended—

5 (A) in subsection (b)—

6 (i) by striking “\$500,000” and inserting  
7 “\$1,000,000”;

8 (ii) by striking “not less than 21 days”; and

9 (iii) by adding at the end the following new  
10 sentence: “The Secretary may then obligate funds  
11 for such services only after the end of the 21-day  
12 period beginning on the date on which the notifica-  
13 tion is received by the committees or, if earlier, the  
14 end of the 14–day period beginning on the date on  
15 which a copy of the report is provided in an elec-  
16 tronic medium pursuant to section 480 of this  
17 title.”; and

18 (B) in subsection (c)(2), by inserting before the  
19 period at the end the following: “or, if over sooner, a  
20 period of 14 days has elapsed from the date on which  
21 a copy of the report is provided in an electronic me-  
22 dium pursuant to section 480 of this title”.

23 (38) Section 2809(f)(2) is amended—

24 (A) by striking “calendar”; and

25 (B) by inserting before the period at the end the  
26 following: “or, if over sooner, a period of 14 days has  
27 expired following the date on which a copy of the jus-  
28 tification and economic analysis are provided in an elec-  
29 tronic medium pursuant to section 480 of this title”.

30 (39) Section 2812(c)(1)(B) is amended by inserting  
31 before the period at the end the following: “or, if over soon-  
32 er, a period of 14 days has expired following the date on  
33 which a copy of the justification and economic analysis are  
34 provided in an electronic medium pursuant to section 480  
35 of this title”.

36 (40) Section 2813(c) is amended—



## 10–34

1 (A) by striking “the end of the 30–day period be-  
2 ginning on the date”; and

3 (B) by adding at the end the following new sen-  
4 tence: “After the notification is transmitted, the Sec-  
5 retary may then enter into the contract only after the  
6 end of the 30–day period beginning on the date on  
7 which the notification is received by the committees or,  
8 if earlier, the end of the 21-day period beginning on the  
9 date on which a copy of the report is provided in an  
10 electronic medium pursuant to section 480 of this  
11 title.”.

12 (41) Section 2825 is amended—

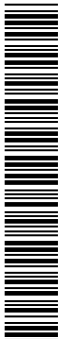
13 (A) in subsection (b)(1)—

14 (i) by striking “(i)” in the last sentence; and

15 (ii) by striking “, and (ii)” and all that follows  
16 and inserting a period and the following new sen-  
17 tence: “If the Secretary concerned makes a deter-  
18 mination under the preceding sentence with respect  
19 to an improvement, the waiver under that sentence  
20 with respect to that improvement may take effect  
21 only after the Secretary transmits a notice of the  
22 proposed waiver, together with an economic anal-  
23 ysis demonstrating that the improvement will be  
24 cost effective, to the appropriate committees of  
25 Congress and a period of 21 days has elapsed after  
26 the date on which the notification is received by  
27 those committees or, if over sooner, a period of 14  
28 days has elapsed after the date on which a copy of  
29 the notice is provided in an electronic medium pur-  
30 suant to section 480 of this title.”; and

31 (B) in subsection (c)(1)(D), by inserting before  
32 the period at the end the following: “or, if over sooner,  
33 a period of 14 days elapses after the date on which a  
34 copy of the notice is provided in an electronic medium  
35 pursuant to section 480 of this title” .

36 (42) Section 2827(b)(2) is amended by inserting be-  
37 fore the period at the end the following: “or, if over sooner,



## 10–35

1 a period of 14 days has elapsed after the date on which a  
2 copy of the notification is provided in an electronic medium  
3 pursuant to section 480 of this title”.

4 (43) Section 2836(f)(2) is amended—

5 (A) by striking “21 calendar days” and inserting  
6 “21 days”; and

7 (B) by inserting before the period at the end the  
8 following: “or, if over sooner, a period of 14 days has  
9 expired following the date on which a copy of the eco-  
10 nomic analysis is provided in an electronic medium pur-  
11 suant to section 480 of this title”.

12 (44) Section 2837(c)(2) is amended by inserting be-  
13 fore the period at the end of the last sentence the following:  
14 “or, if earlier, the end of the 14-day period beginning on  
15 the date on which a copy of the report is provided in an  
16 electronic medium pursuant to section 480 of this title”.

17 (45) Section 2854(b) is amended by inserting before  
18 the period at the end of the last sentence the following: “or,  
19 if earlier, the end of the seven-day period beginning on the  
20 date on which a copy of the notification is provided in an  
21 electronic medium pursuant to section 480 of this title”.

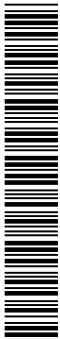
22 (46) Section 2854a(c)(2) is amended—

23 (A) by striking “calendar”; and

24 (B) by inserting before the period at the end the  
25 following: “or, if over sooner, a period of 14 days has  
26 elapsed after the date on which a copy of the justifica-  
27 tion is provided in an electronic medium pursuant to  
28 section 480 of this title”.

29 (47) Section 2865(e)(2) is amended by inserting be-  
30 fore the period at the end of the last sentence the following:  
31 “or, if earlier, the end of the 14-day period beginning on  
32 the date on which a copy of the notification is provided in  
33 an electronic medium pursuant to section 480 of this title”.

34 (48) Section 2866(c)(2) is amended by inserting be-  
35 fore the period at the end of the last sentence the following:  
36 “or, if earlier, the end of the 14-day period beginning on



## 10–36

1 the date on which a copy of the notification is provided in  
2 an electronic medium pursuant to section 480 of this title”.

3 (49) Section 2867(c) is amended by inserting before  
4 the period at the end of the last sentence the following: “or,  
5 if earlier, the end of the 14-day period beginning on the  
6 date on which a copy of the notification is provided in an  
7 electronic medium pursuant to section 480 of this title”.

8 (50) Section 2875(e) is amended by inserting before  
9 the period at the end the following: “or, if earlier, the end  
10 of the 14-day period beginning on the date on which a copy  
11 of the notice and justification is provided in an electronic  
12 medium pursuant to section 480 of this title”.

13 (51) Section 2883(f) is amended by inserting before  
14 the period at the end the following: “or, if earlier, the end  
15 of the 14-day period beginning on the date on which a copy  
16 of the notice and justification is provided in an electronic  
17 medium pursuant to section 480 of this title”.

18 (52) Section 2902(g) is amended—

19 (A) by striking paragraph (2); and

20 (B) by striking “(1)” after “(g)”.

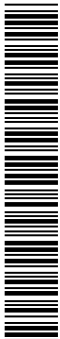
21 (53) Section 4342(h) is amended by striking “Sec-  
22 retary of the Army” and inserting “Superintendent”.

23 (54) Section 4357(c) is amended by inserting before  
24 the period at the end the following: “or, if earlier, the expi-  
25 ration of 14 days following the date on which a copy of the  
26 report is provided in an electronic medium pursuant to sec-  
27 tion 480 of this title”.

28 (55) Section 6954(f) is amended by striking “Sec-  
29 retary of the Navy” and inserting “Superintendent of the  
30 Naval Academy”.

31 (56) Section 6975(c) is amended by inserting before  
32 the period at the end the following: “or, if earlier, the expi-  
33 ration of 14 days following the date on which a copy of the  
34 report is provided in an electronic medium pursuant to sec-  
35 tion 480 of this title”.

36 (57) Section 7049(c) is amended—



## 10–37

1 (A) by striking “CERTIFICATION” in the sub-  
2 section heading and inserting “DETERMINATION”; and

3 (B) by striking “, and certifies to” and all that  
4 follows through “House of Representatives,”.

5 (58) Section 9342(h) is amended by striking “Sec-  
6 retary of the Air Force” and inserting “Superintendent”.

7 (59) Section 9356(c) is amended by inserting before  
8 the period at the end the following: “or, if earlier, the expi-  
9 ration of 14 days following the date on which a copy of the  
10 report is provided in an electronic medium pursuant to sec-  
11 tion 480 of this title”.

12 (60) Section 9514 is amended—

13 (A) in subsection (c)—

14 (i) by striking “to Congress” and all that fol-  
15 lows through “notification of the loss” in para-  
16 graph (1) and inserting “to Congress notification  
17 of the loss”;

18 (ii) by striking “loss; and” and inserting  
19 “loss.”; and

20 (iii) by striking paragraph (2); and

21 (B) by striking subsection (f).

22 (61) Section 12302 is amended by striking subsection  
23 (d).

24 (b) NATIONAL DEFENSE AUTHORIZATION ACT FOR FIS-  
25 CAL YEAR 1991.—Section 2921(g) of the National Defense Au-  
26 thorization Act for Fiscal Year 1991 (Public Law 101–510; 10  
27 U.S.C. 2687 note) is amended—

28 (1) in paragraph (1), by striking “Not less than 30  
29 days before” and inserting “Before”;

30 (2) in paragraph (2), by striking “Not less than 30  
31 days before” and inserting “Before”; and

32 (3) by adding at the end the following new paragraph:

33 “(3) When the Secretary submits a notification of a pro-  
34 posed agreement under paragraph (1) or (2), the Secretary  
35 may then enter into the agreement described in the notification  
36 only after the end of the 30-day period beginning on the date  
37 on which the notification is submitted or, if earlier, the end of



## 10–38

1 the 14-day period beginning on the date on which a copy of the  
2 notification is provided in an electronic medium pursuant to  
3 section 480 of title 10, United States Code.”.

4 (c) NATIONAL DEFENSE AUTHORIZATION ACT FOR FIS-  
5 CAL YEARS 1992 AND 1993.—THE NATIONAL DEFENSE AU-  
6 THORIZATION ACT FOR FISCAL YEARS 1992 AND 1993 (PUB-  
7 LIC LAW 102–190) IS AMENDED AS FOLLOWS:

8 (1) Section 734 (10 U.S.C. 1074 note) is amended by  
9 striking subsection (c).

10 (2) Section 2868(a) (10 U.S.C. 2802 note) is amended  
11 by striking “The Secretary of Defense” and all that follows  
12 through “is to be authorized” and inserting “Not later  
13 than 30 days after the date on which a decision is made  
14 selecting the site or sites for the permanent basing of a  
15 new weapon system, the Secretary of Defense shall submit  
16 to Congress”.

17 (d) NATIONAL DEFENSE AUTHORIZATION ACT FOR FIS-  
18 CAL YEAR 1993.—THE NATIONAL DEFENSE AUTHORIZATION  
19 ACT FOR FISCAL YEAR 1993 (PUBLIC LAW 102–484) IS  
20 AMENDED AS FOLLOWS:

21 (1) Section 324 (10 U.S.C. 2701 note) is amended—

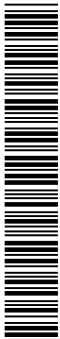
22 (A) by striking “(a) SENSE OF CONGRESS.—”;  
23 and

24 (B) by striking subsection (b).

25 (2) Section 1082(b)(1) (10 U.S.C. 113 note) is  
26 amended by striking “the Secretary of Defense—” and all  
27 that follows and inserting “the Secretary of Defense deter-  
28 mines that it is in the national security interests of the  
29 United States for the military departments to do so.”.

30 (e) NATIONAL DEFENSE AUTHORIZATION ACT FOR FIS-  
31 CAL YEAR 1995.—Section 721 of the National Defense Author-  
32 ization Act for Fiscal Year 1995 (Public Law 103–337; 10  
33 U.S.C. 1074 note) is amended by striking subsection (h).

34 (f) NATIONAL DEFENSE AUTHORIZATION ACT FOR FIS-  
35 CAL YEAR 1997.—The National Defense Authorization Act for  
36 Fiscal Year 1997 (Public Law 104–201) is amended as follows:



## 10–39

1 (1) Section 324 (10 U.S.C. 2706 note) is amended by  
2 striking subsection (c).

3 (2) Section 1065(b) (10 U.S.C. 113 note) is  
4 amended—

5 (A) by striking “(1)” before “Notwithstanding”;  
6 and

7 (B) by striking paragraph (2).

8 (g) STROM THURMOND NATIONAL DEFENSE AUTHORIZA-  
9 TION ACT FOR FISCAL YEAR 1999.—The Strom Thurmond  
10 National Defense Authorization Act for Fiscal Year 1999 (Pub-  
11 lic Law 105–261) is amended as follows:

12 (1) Section 745(e) (10 U.S.C. 1071 note) is  
13 amended—

14 (A) by striking “(1)” before “The Secretary of  
15 Defense”; and

16 (B) by striking paragraph (2).

17 (2) Section 1223 (22 U.S.C. 1928 note) is repealed.

18 (h) NATIONAL DEFENSE AUTHORIZATION ACT FOR FIS-  
19 CAL YEAR 2000.—The National Defense Authorization Act for  
20 Fiscal Year 2000 (Public Law 106–65) is amended as follows:

21 (1) Section 212 (10 U.S.C. 2501 note) is amended by  
22 striking subsection (c).

23 (2) Section 724 (10 U.S.C. 1092 note) is amended by  
24 striking subsection (e).

25 (3) Section 1039 (10 U.S.C. 113 note) is amended by  
26 striking subsection (b).

27 (i) MILITARY CONSTRUCTION APPROPRIATIONS ACT,  
28 2001.—Section 125 of the Military Construction Appropria-  
29 tions Act, 2001 (division A of Public Law 106–246; 114 Stat.  
30 517), is repealed.

31 (j) DEPARTMENT OF DEFENSE APPROPRIATIONS ACT,  
32 2002.—Section 8009 of the Department of Defense Appropria-  
33 tions Act, 2002 (division A of Public Law 107–117; 115 Stat.  
34 2249; 10 U.S.C. 401 note), is amended by striking “, and these  
35 obligations shall be reported to the Congress”.



1   **SEC. 1032. PLAN FOR PROMPT GLOBAL STRIKE CAPA-**  
2       **BILITY.**

3       (a) INTEGRATED PLAN FOR PROMPT GLOBAL STRIKE CA-  
4   PABILITY.—The Secretary of Defense shall establish an inte-  
5   grated plan for developing, deploying, and sustaining a prompt  
6   global strike capability in the Armed Forces. The Secretary  
7   shall update the plan annually.

8       (b) ANNUAL REPORTS.—(1) Not later than April 1 of  
9   each of 2004, 2005, and 2006, the Secretary shall submit to  
10   the congressional defense committees a report on the plan es-  
11   tablished under subsection (a).

12       (2) Each report under paragraph (1) shall include the fol-  
13   lowing:

14           (A) A description and assessment of the targets  
15           against which long-range strike assets might be directed  
16           and the conditions under which those assets might be used.

17           (B) The role of, and plans for ensuring, sustainment  
18           and modernization of current long-range strike assets, in-  
19           cluding bombers, intercontinental ballistic missiles, and  
20           submarine-launched ballistic missiles.

21           (C) A description of the capabilities desired for ad-  
22           vanced long-range strike assets and plans to achieve those  
23           capabilities.

24           (D) A description of the capabilities desired for ad-  
25           vanced conventional munitions and the plans to achieve  
26           those capabilities.

27           (E) An assessment of advanced nuclear concepts that  
28           could contribute to the prompt global strike mission.

29           (F) An assessment of the command, control, and com-  
30           munications capabilities necessary to support prompt global  
31           strike capabilities.

32           (G) An assessment of intelligence, surveillance, and re-  
33           connaissance capabilities necessary to support prompt glob-  
34           al strike capabilities.

35           (H) A description of how prompt global strike capa-  
36           bilities are to be integrated with theater strike capabilities.





1 (I) An estimated schedule for achieving the desired  
2 prompt global strike capabilities.

3 (J) The estimated cost of achieving the desired prompt  
4 global strike capabilities.

5 (K) A description of ongoing and future studies nec-  
6 essary for updating the plan appropriately.

7 **SEC. 1033. ANNUAL REPORT CONCERNING DISMAN-**  
8 **TLING OF STRATEGIC NUCLEAR WARHEADS.**

9 (a) ANNUAL REPORT.—Concurrent with the submission of  
10 the President’s budget request to Congress each year, the Di-  
11 rector of Central Intelligence shall submit to the committees  
12 specified in subsection (e) a report concerning dismantlement  
13 of Russian strategic nuclear warheads under the Moscow Trea-  
14 ty. Each such report shall discuss nuclear weapons dismantled  
15 by Russia during the prior fiscal year and the Director’s pro-  
16 jections for nuclear weapons to be dismantled by Russia during  
17 the current fiscal year and the fiscal year covered by the budg-  
18 et.

19 (b) CLASSIFICATION.—The annual report under this sec-  
20 tion shall be transmitted in an unclassified form when possible  
21 and classified form as necessary.

22 (c) TERMINATION OF REPORT REQUIREMENT.—The re-  
23 quirement to submit an annual report under this section termi-  
24 nates when the Moscow Treaty is no longer in effect.

25 (d) MOSCOW TREATY DEFINED.—For purposes of this  
26 section, the term “Moscow Treaty” means the Treaty Between  
27 the United States of America and the Russian Federation on  
28 Strategic Offensive Reductions, done at Moscow on May 24,  
29 2002.

30 (e) COMMITTEES SPECIFIED.—The committees to which  
31 annual reports are to be submitted under this section are the  
32 following:

33 (1) The Committee on Armed Services, the Select  
34 Committee on Intelligence, and the Committee on Foreign  
35 Relations of the Senate.



1 (2) The Committee on Armed Services, the Permanent  
2 Select Committee on Intelligence, and the Committee on  
3 International Relations of the House of Representatives.

4 **SEC. 1034. REPORT ON USE OF UNMANNED AERIAL VE-**  
5 **HICLES FOR SUPPORT OF HOMELAND SECU-**  
6 **RITY MISSIONS.**

7 (a) REQUIREMENT FOR REPORT.—Not later than April 1,  
8 2004, the President shall submit to Congress a report on the  
9 potential uses of unmanned aerial vehicles for support of the  
10 performance of homeland security missions.

11 (b) CONTENT.—The report shall, at a minimum, include  
12 the following matters:

13 (1) An assessment of the potential for using un-  
14 manned aerial vehicles for monitoring activities in remote  
15 areas along the northern and southern borders of the  
16 United States.

17 (2) An assessment of the potential for using long-en-  
18 durance, land-based unmanned aerial vehicles for sup-  
19 porting the Coast Guard in the performance of its—

20 (A) homeland security missions;

21 (B) drug interdiction missions; and

22 (C) other maritime missions along the approxi-  
23 mately 95,000 miles of inland waterways in the United  
24 States.

25 (3) An assessment of the potential for using un-  
26 manned aerial vehicles for monitoring the safety and integ-  
27 rity of critical infrastructure within the territory of the  
28 United States, including the following:

29 (A) Oil and gas pipelines.

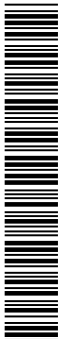
30 (B) Long-distance power transmission lines.

31 (C) Hydroelectric and nuclear power plants.

32 (D) Dams and drinking water utilities.

33 (4) An assessment of the potential for using un-  
34 manned aerial vehicles for monitoring the transportation of  
35 hazardous cargo.

36 (5) A discussion of the safety issues involved in—



## 10-43

1 (A) the use of unmanned aerial vehicles by agen-  
2 cies other than the Department of Defense; and

3 (B) the operation of unmanned aerial vehicles over  
4 populated areas of the United States.

5 (6) A discussion of—

6 (A) the effects on privacy and civil liberties that  
7 could result from the monitoring uses of unmanned  
8 aerial vehicles operated over the territory of the United  
9 States; and

10 (B) any restrictions on the domestic use of un-  
11 manned aerial vehicles that should be imposed, or any  
12 other actions that should be taken, to prevent any ad-  
13 verse effect of such a use of unmanned aerial vehicles  
14 on privacy or civil liberties.

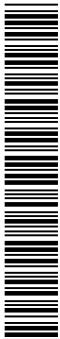
15 (7) A discussion of what, if any, legislation and orga-  
16 nizational changes may be necessary to accommodate the  
17 use of unmanned aerial vehicles of the Department of De-  
18 fense in support of the performance of homeland security  
19 missions, including any amendment of section 1385 of title  
20 18, United States Code (popularly referred to as the  
21 “Posse Comitatus Act”).

22 (8) An evaluation of the capabilities of manufacturers  
23 of unmanned aerial vehicles to produce such vehicles at  
24 higher rates if necessary to meet any increased require-  
25 ments for homeland security and homeland defense mis-  
26 sions.

27 (c) REFERRAL TO COMMITTEES.—The report under sub-  
28 section (a) shall—

29 (1) upon receipt in the Senate, be referred to the  
30 Committee on Armed Services of the Senate and other  
31 committees, as appropriate; and

32 (2) upon receipt in the House of Representatives, be  
33 referred to the Committee on Armed Services of the House  
34 of Representatives and other committees, as appropriate.



**Subtitle E—Codifications, Definitions, and  
Technical Amendments**

**SEC. 1041. CODIFICATION AND REVISION OF DEFENSE  
COUNTERINTELLIGENCE POLYGRAPH PRO-  
GRAM AUTHORITY.**

(a) CODIFICATION.—(1) Chapter 80 of title 10, United States Code, is amended by inserting after section 1564 the following new section:

**“§ 1564a. Counterintelligence polygraph program**

“(a) AUTHORITY FOR PROGRAM.—The Secretary of Defense may carry out a program for the administration of counterintelligence polygraph examinations to persons described in subsection (b). The program shall be based on Department of Defense Directive 5210.48, dated December 24, 1984.

“(b) PERSONS COVERED.—Except as provided in subsection (c), the following persons whose duties involve access to information that has been classified at the level of top secret or designated as being within a special access program under section 4.4(a) of Executive Order 12958 (or a successor Executive order) are subject to this section:

“(1) Military and civilian personnel of the Department of Defense.

“(2) Personnel of defense contractors.

“(3) A person assigned or detailed to the Department of Defense.

“(4) An applicant for a position in the Department of Defense.

“(c) EXCEPTIONS FROM COVERAGE FOR CERTAIN INTELLIGENCE AGENCIES AND FUNCTIONS.—This section does not apply to the following persons:

“(1) A person assigned or detailed to the Central Intelligence Agency or to an expert or consultant under a contract with the Central Intelligence Agency.

“(2) A person who is—

“(A) employed by or assigned or detailed to the National Security Agency;



1 “(B) an expert or consultant under contract to the  
2 National Security Agency;

3 “(C) an employee of a contractor of the National  
4 Security Agency; or

5 “(D) a person applying for a position in the Na-  
6 tional Security Agency.

7 “(3) A person assigned to a space where sensitive  
8 cryptographic information is produced, processed, or stored.

9 “(4) A person employed by, or assigned or detailed to,  
10 an office within the Department of Defense for the collec-  
11 tion of specialized national foreign intelligence through re-  
12 connaissance programs or a contractor of such an office.

13 “(d) OVERSIGHT.—(1) The Secretary shall establish a  
14 process to monitor responsible and effective application of poly-  
15 graph examinations within the Department of Defense.

16 “(2) The Secretary shall make information on the use of  
17 polygraphs within the Department of Defense available to the  
18 congressional defense committees.

19 “(e) POLYGRAPH RESEARCH PROGRAM.—The Secretary  
20 shall carry out a continuing research program to support the  
21 polygraph examination activities of the Department of Defense.  
22 The program shall include—

23 “(1) an on-going evaluation of the validity of poly-  
24 graph techniques used by the Department;

25 “(2) research on polygraph countermeasures and anti-  
26 countermeasures; and

27 “(3) developmental research on polygraph techniques,  
28 instrumentation, and analytic methods.”.

29 (2) The table of sections at the beginning of such chapter  
30 is amended by inserting after the item relating to section 1564  
31 the following new item:

“1564a. Counterintelligence polygraph program.”.

32 (b) CONFORMING REPEAL.—Section 1121 of the National  
33 Defense Authorization Act for Fiscal Years 1988 and 1989 (10  
34 U.S.C. 113 note), is repealed.



1   **SEC. 1042. GENERAL DEFINITIONS APPLICABLE TO FA-**  
2                   **CILITIES AND OPERATIONS OF DEPART-**  
3                   **MENT OF DEFENSE.**

4           (a) GENERAL DEFINITIONS APPLICABLE TO FACILITIES  
5 AND OPERATIONS.—Section 101 of title 10, United States  
6 Code, is amended—

7           (1) by redesignating subsections (e) and (f) as sub-  
8           sections (f) and (g), respectively; and

9           (2) by inserting after subsection (d) the following new  
10          subsection (e):

11          “(e) FACILITIES AND OPERATIONS.—The following defini-  
12          tions relating to facilities and operations apply in this title:

13           “(1) RANGE.—The term ‘range’, when used in a geo-  
14           graphic sense, means a designated land or water area that  
15           is set aside, managed, and used for range activities of the  
16           Department of Defense. Such term includes the following:

17           “(A) Firing lines and positions, maneuver areas,  
18           firing lanes, test pads, detonation pads, impact areas,  
19           electronic scoring sites, buffer zones with restricted ac-  
20           cess, and exclusionary areas.

21           “(B) Airspace areas designated for military use in  
22           accordance with regulations and procedures prescribed  
23           by the Administrator of the Federal Aviation Adminis-  
24           tration.

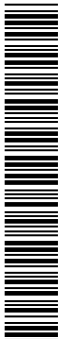
25           “(2) RANGE ACTIVITIES.—The term ‘range activities’  
26          means—

27           “(A) research, development, testing, and evalua-  
28           tion of military munitions, other ordnance, and weap-  
29           ons systems; and

30           “(B) the training of members of the armed forces  
31           in the use and handling of military munitions, other  
32           ordnance, and weapons systems.

33           “(3) OPERATIONAL RANGE.—The term ‘operational  
34           range’ means a range that is under the jurisdiction, cus-  
35           tody, or control of the Secretary of Defense and—

36           “(A) that is used for range activities, or



1 “(B) although not currently being used for range  
2 activities, that is still considered by the Secretary to be  
3 a range and has not been put to a new use that is in-  
4 compatible with range activities.

5 “(4) MILITARY MUNITIONS.—(A) The term ‘military  
6 munitions’ means all ammunition products and components  
7 produced for or used by the armed forces for national de-  
8 fense and security, including ammunition products or com-  
9 ponents under the control of the Department of Defense,  
10 the Coast Guard, the Department of Energy, and the Na-  
11 tional Guard.

12 “(B) Such term includes the following:

13 “(i) Confined gaseous, liquid, and solid propel-  
14 lants.

15 “(ii) Explosives, pyrotechnics, chemical and riot  
16 control agents, smokes, and incendiaries, including bulk  
17 explosives, and chemical warfare agents.

18 “(iii) Chemical munitions, rockets, guided and bal-  
19 listic missiles, bombs, warheads, mortar rounds, artil-  
20 lery ammunition, small arms ammunition, grenades,  
21 mines, torpedoes, depth charges, cluster munitions and  
22 dispensers, and demolition charges.

23 “(iv) Devices and components of any item speci-  
24 fied in clauses (i) through (iii).

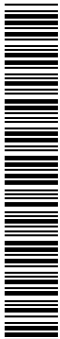
25 “(C) Such term does not include the following:

26 “(i) Wholly inert items.

27 “(ii) Improvised explosive devices.

28 “(iii) Nuclear weapons, nuclear devices, and nu-  
29 clear components, other than nonnuclear components of  
30 nuclear devices that are managed under the nuclear  
31 weapons program of the Department of Energy after  
32 all required sanitization operations under the Atomic  
33 Energy Act of 1954 (42 U.S.C. 2011 et seq.) have been  
34 completed.

35 “(5) UNEXPLODED ORDNANCE.—The term  
36 ‘unexploded ordnance’ means military munitions that—



10-48

1 “(A) have been primed, fused, armed, or otherwise  
2 prepared for action;

3 “(B) have been fired, dropped, launched, pro-  
4 jected, or placed in such a manner as to constitute a  
5 hazard to operations, installations, personnel, or mate-  
6 rial; and

7 “(C) remain unexploded, whether by malfunction,  
8 design, or any other cause.”.

9 (b) REFERENCES TO MILITARY MUNITIONS, ETC.—Sec-  
10 tion 2710(e) of such title is amended—

11 (1) by striking paragraphs (3), (5), and (9); and

12 (2) by redesignating paragraphs (4), (6), (7), (8), and  
13 (10) as paragraphs (3), (4), (5), (6), and (7), respectively.

14 **SEC. 1043. ADDITIONAL DEFINITIONS FOR PURPOSES OF**  
15 **TITLE 10, UNITED STATES CODE.**

16 (a) GENERAL DEFINITIONS.—Section 101(a) of title 10,  
17 United States Code, is amended by adding at the end the fol-  
18 lowing new paragraphs:

19 “(16) The term ‘congressional defense committees’  
20 means—

21 “(A) the Committee on Armed Services and the  
22 Committee on Appropriations of the Senate; and

23 “(B) the Committee on Armed Services and the  
24 Committee on Appropriations of the House of Rep-  
25 resentatives.

26 “(17) The term ‘base closure law’ means the following:

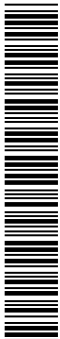
27 “(A) Section 2687 of this title.

28 “(B) The Defense Base Closure and Realignment  
29 Act of 1990 (part A of title XXIX of Public Law 101-  
30 510; 10 U.S.C. 2687 note).

31 “(C) Title II of the Defense Authorization Amend-  
32 ments and Base Closure and Realignment Act (Public  
33 Law 100-526; 10 U.S.C. 2687 note).”.

34 (b) REFERENCES TO CONGRESSIONAL DEFENSE COMMIT-  
35 TEES.—Title 10, United States Code, is further amended as  
36 follows:

37 (1) Section 135(e) is amended—





## 10–49

1 (A) by striking “(1)”;

2 (B) by striking “each congressional committee  
3 specified in paragraph (2)” and inserting “each of the  
4 congressional defense committees”; and

5 (C) by striking paragraph (2).

6 (2) Section 153(c) is amended—

7 (A) in paragraph (1), by striking “committees of  
8 Congress named in paragraph (2)” and inserting “con-  
9 gressional defense committees”;

10 (B) by striking paragraph (2); and

11 (C) by designating the second sentence of para-  
12 graph (1) as paragraph (2) and in that paragraph (as  
13 so designated) by striking “The report” and inserting  
14 “Each report under paragraph (1)”.

15 (3) Section 181(d)(2) is amended—

16 (A) by striking “subsection:” and all that follows  
17 through “‘oversight” and inserting “subsection, the  
18 term ‘oversight’; and

19 (B) by striking subparagraph (B).

20 (4) Section 224 is amended by striking subsection (f).

21 (5) Section 228(e) is amended—

22 (A) by striking “DEFINITIONS” and all that fol-  
23 lows through “(1) The term” and inserting “O&M  
24 BUDGET ACTIVITY DEFINED.—In this section, the  
25 term”; and

26 (B) by striking paragraph (2).

27 (6) Section 229 is amended by striking subsection (f).

28 (7) Section 1107(f)(4) is amended by striking sub-  
29 paragraph (C).

30 (8) Section 2216(j) is amended by striking paragraph  
31 (3).

32 (9) Section 2218(l) is amended—

33 (A) by striking paragraph (4); and

34 (B) by redesignating paragraph (5) as paragraph  
35 (4).

36 (10) Section 2306b(l) is amended—

37 (A) by striking paragraph (9); and



## 10–50

1 (B) by redesignating paragraph (10) as paragraph  
2 (9).

3 (11) Section 2308(e)(2) is amended—

4 (A) by striking subparagraph (A); and

5 (B) by redesignating subparagraphs (B) and (C)  
6 as subparagraphs (A) and (B), respectively.

7 (12) Section 2350j is amended—

8 (A) in subsection (e), by striking “congressional  
9 committees specified in subsection (g)” in paragraphs  
10 (1) and (3) and inserting “congressional defense com-  
11 mittees”; and

12 (B) by striking subsection (g).

13 (13) Section 2366(e) is amended—

14 (A) by striking paragraph (7); and

15 (B) by redesignating paragraphs (8) and (9) as  
16 paragraphs (7) and (8), respectively.

17 (14) Section 2399(h) is amended—

18 (A) by striking “DEFINITIONS.—” and all that fol-  
19 lows through “(1) The term” and inserting “OPER-  
20 ATIONAL TEST AND EVALUATION DEFINED.—In this  
21 section, the term”;

22 (B) by striking paragraph (2);

23 (C) by redesignating subparagraphs (A), (B), and  
24 (C) as paragraphs (1), (2), and (3), respectively; and

25 (D) by realigning those paragraphs (as so redesign-  
26 ated) so as to be indented two ems from the left mar-  
27 gin.

28 (15) Section 2667(h) is amended by striking para-  
29 graph (1).

30 (16) Section 2801(c)(4) is amended by striking “the  
31 Committee on” the first place it appears and all that fol-  
32 lows through “House of Representatives” and inserting  
33 “the congressional defense committees”.

34 (c) REFERENCES TO BASE CLOSURE LAWS.—Title 10,  
35 United States Code, is further amended as follows:

36 (1) Section 2306c(h) is amended by striking “ADDI-  
37 TIONAL” and all that follows through “(2) The term” and



## 10–51

1 inserting “MILITARY INSTALLATION DEFINED.—In this  
2 section, the term”.

3 (2) Section 2490a(f) is amended—

4 (A) by striking “DEFINITIONS.—” and all that fol-  
5 lows through “(1) The term” and inserting “NON-  
6 APPROPRIATED FUND INSTRUMENTALITY DEFINED.—  
7 In this section, the term”; and

8 (B) by striking paragraph (2).

9 (3) Section 2667(h), as amended by subsection  
10 (b)(15), is further amended by striking “section:” and all  
11 that follows through “(3) The term” and inserting “sec-  
12 tion, the term”.

13 (4) Section 2696(e) is amended—

14 (A) by striking paragraphs (1), (2), (3), and (4)  
15 and inserting the following:

16 “(1) A base closure law.”; and

17 (B) by redesignating paragraphs (5) and (6) as  
18 paragraphs (2) and (3), respectively.

19 (5) Section 2705 is amended by striking subsection  
20 (h).

21 (6) Section 2871 is amended by striking paragraph  
22 (2).

23 **SEC. 1044. INCLUSION OF ANNUAL MILITARY CON-**  
24 **STRUCTION AUTHORIZATION REQUEST IN**  
25 **ANNUAL DEFENSE AUTHORIZATION RE-**  
26 **QUEST.**

27 (a) INCLUSION OF MILITARY CONSTRUCTION REQUEST.—  
28 Section 113a(b) of title 10, United States Code, is amended—

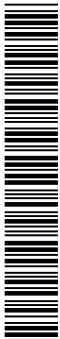
29 (1) by redesignating paragraph (3) as paragraph (4);  
30 and

31 (2) by inserting after paragraph (2) the following new  
32 paragraph (3):

33 “(3) Authority to carry out military construction  
34 projects, as required by section 2802 of this title.”.

35 (b) REPEAL OF SEPARATE TRANSMISSION OF REQUEST.—

36 (1) Section 2859 of such title is repealed.



## 10–52

(2) The table of sections at the beginning of subchapter III of chapter 169 of such title is amended by striking the item relating to section 2859.

**SEC. 1045. TECHNICAL AND CLERICAL AMENDMENTS.**

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, are amended by striking “2701” in the item relating to chapter 160 and inserting “2700”.

(2) Section 101(a)(9)(D) is amended by striking “Transportation” and inserting “Homeland Security”.

(3) Section 1115(c)(1)(B) is amended by striking “and other than members” and inserting “(other than members”.

(4) Section 2002(a)(2) is amended by striking “Foreign Service Institute” and inserting “George P. Schultz National Foreign Affairs Training Center”.

(5)(A) Section 2248 is repealed.

(B) The table of sections at the beginning of subchapter I of chapter 134 is amended by striking the item relating to section 2248.

(6) Section 2432(h)(1) is amended by inserting “program” in the first sentence after “for such”.

(7) Section 7305(d) is amended by inserting “such” before “title III” the second place it appears.

(b) TITLE 37, UNITED STATES CODE.—Title 37, United States Code, is amended as follows:

(1) Section 323(a) is amended by striking “1 year” in paragraphs (1) and (2) and inserting “one year”.

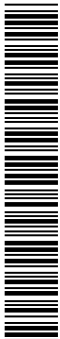
(2) Section 402 is amended—

(A) in subsection (b)—

(i) by striking paragraph (1);

(ii) by redesignating paragraphs (2), (3), and

(4) as paragraphs (1), (2), and (3), respectively;



## 10–53

(iii) in paragraph (1) (as so redesignated), by striking “On and after January 1, 2002, the” and inserting “The”; and

(iv) in paragraph (3) (as so redesignated), by striking “paragraph (2)” and inserting “paragraph (1)”; and

(B) in subsection (d), by striking “subsection (b)(2)” and inserting “subsection (b)(1)”.

(c) FLOYD D. SPENCE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001.—The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398) is amended as follows:

(1) Section 814(g)(1) is amended by striking “the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106)” and inserting “subtitle III of title 40, United States Code”.

(2) Section 1308(c) (22 U.S.C. 5959) is amended—

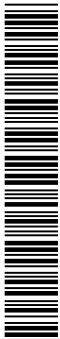
(A) by redesignating paragraph (7) as paragraph (8); and

(B) by redesignating the second paragraph (6) as paragraph (7).

(d) STROM THURMOND NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999.—Section 819(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2089) is amended by striking “section 201(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(c)),” and inserting “section 503 of title 40, United States Code,”.

(e) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997.—Section 1084(e) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2675) is amended by striking “98–515” and inserting “98–525”. The amendment made by the preceding sentence shall take effect as if included in Public Law 104–201.

(f) FEDERAL ACQUISITION STREAMLINING ACT OF 1994.—Subsection (d) of section 1004 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355; 108 Stat.



1 3253) is amended by striking “under—” and all that follows  
2 through the end of paragraph (2) and inserting “under chapter  
3 11 of title 40, United States Code.”.

4 (g) ARMED FORCES RETIREMENT HOME ACT OF 1991.—  
5 Section 1520(b)(1)(C) of the Armed Forces Retirement Home  
6 Act of 1991 (24 U.S.C. 420(b)(1)(C)) is amended by inserting  
7 “Armed Forces” before “Retirement Home Trust Fund”.

## 8 **Subtitle F—Other Matters**

### 9 **SEC. 1051. ASSESSMENT OF EFFECTS OF SPECIFIED** 10 **STATUTORY LIMITATIONS ON THE GRANT-** 11 **ING OF SECURITY CLEARANCES.**

12 Not later than 60 days after the date of the enactment of  
13 this Act, the Secretary of Defense shall submit to the Com-  
14 mittee on Armed Services of the Senate and the Committee on  
15 Armed Services of the House of Representatives an assessment  
16 of the effects of the provisions of section 986 of title 10, United  
17 States Code (relating to limitations on security clearances), on  
18 the granting (or renewal) of security clearances for Department  
19 of Defense personnel and defense contractor personnel. The as-  
20 sessment shall review the effects of the disqualification factors  
21 specified in subsection (c) of that section and shall include such  
22 recommendations for legislation or administrative steps as the  
23 Secretary considers necessary.

### 24 **SEC. 1052. ACQUISITION OF HISTORICAL ARTIFACTS** 25 **THROUGH EXCHANGE OF OBSOLETE OR** 26 **SURPLUS PROPERTY.**

27 (a) ACQUISITION AUTHORIZED.—The Secretary of a mili-  
28 tary department may use the authority provided by section  
29 2572 of title 10, United States Code, to acquire an historical  
30 artifact that directly benefits the historical collection of the  
31 Armed Forces in exchange for any obsolete or surplus property  
32 held by that military department, without regard to whether  
33 the property is described in subsection (c) of such section.

34 (b) DURATION OF AUTHORITY.—The authority provided  
35 by subsection (a) applies during fiscal years 2004 and 2005.



**SEC. 1053. CONVEYANCE OF SURPLUS T-37 AIRCRAFT TO  
AIR FORCE AVIATION HERITAGE FOUNDATION,  
INCORPORATED.**

(a) **AUTHORITY TO CONVEY.**—The Secretary of the Air Force may convey to the Air Force Aviation Heritage Foundation, Incorporated, of Georgia (in this section referred to as the “Foundation”), all right, title, and interest of the United States in and to one surplus T-37 “Tweet” aircraft for the sole purpose of permitting the Foundation to use the aircraft in a static display. The conveyance shall be made by means of a conditional deed of gift.

(b) **CONDITION OF AIRCRAFT.**—(1) The Secretary may not convey the aircraft under subsection (a) until the aircraft has been demilitarized in such manner as the Secretary determines necessary to ensure that the aircraft is permanently unfit for flight and does not have any capability for use as a platform for launching or releasing munitions or any other combat capability that it was designed to have.

(2) The Foundation shall be responsible for the costs of demilitarizing the aircraft, as required by paragraph (1). Demilitarization shall be carried out in a manner intended to preserve the historical and display value of the aircraft.

(c) **CONDITIONS FOR CONVEYANCE.**—(1) The conveyance of a T-37 aircraft under this section shall be subject to the following conditions:

(A) That the Foundation not convey any right, title, or interest in, or transfer possession of, the aircraft to any other party without the prior approval of the Secretary of the Air Force.

(B) That the Foundation not alter the aircraft to restore it to flyable condition.

(C) That if the Secretary of the Air Force determines at any time that the Foundation has conveyed an ownership interest in, or transferred possession of, the aircraft to any other party without the prior approval of the Secretary, or has failed to comply with the condition set forth in subparagraph (B), all right, title, and interest in and to



1 the aircraft, including any repair or alteration of the air-  
2 craft, shall revert to the United States, and the United  
3 States shall have the right of immediate possession of the  
4 aircraft.

5 (2) The Secretary shall include the conditions under para-  
6 graph (1) in the instrument of conveyance of the T–37 aircraft.

7 (d) CONVEYANCE AT NO COST TO THE UNITED  
8 STATES.—Any conveyance of a T–37 aircraft under this sec-  
9 tion shall be made at no cost to the United States. Any costs  
10 associated with such conveyance, costs of determining compli-  
11 ance by the Foundation with the conditions in subsection (b),  
12 and costs of restoration and maintenance of the aircraft con-  
13 veyed shall be borne by the Foundation.

14 (e) ADDITIONAL TERMS AND CONDITIONS.—The Sec-  
15 retary of the Air Force may require such additional terms and  
16 conditions in connection with the conveyance under this section  
17 as the Secretary considers appropriate to protect the interests  
18 of the United States.

19 (f) DURATION OF CONVEYANCE AUTHORITY.—The au-  
20 thority to make the conveyance to the Foundation authorized  
21 by this section expires on September 30, 2005.

22 **SEC. 1054. DEPARTMENT OF DEFENSE BIENNIAL STRA-**  
23 **TEGIC PLAN FOR MANAGEMENT OF ELEC-**  
24 **TROMAGNETIC SPECTRUM.**

25 (a) REQUIREMENT FOR PLAN.—Chapter 23 of title 10,  
26 United States Code, is amended by inserting after section 487  
27 the following new section:

28 **“§ 488. Management of electromagnetic spectrum:**  
29 **biennial strategic plan**

30 “(a) REQUIREMENT FOR STRATEGIC PLAN.—Every other  
31 year, and in time for submission to Congress under subsection  
32 (b), the Secretary of Defense shall prepare a strategic plan for  
33 the management of the electromagnetic spectrum to ensure the  
34 accessibility and efficient use of that spectrum needed to sup-  
35 port the mission of the Department of Defense.

36 “(b) SUBMISSION OF PLAN TO CONGRESS.—The Secretary  
37 of Defense shall submit to Congress the strategic plan most re-





cently prepared under subsection (a) at the same time that the President submits to Congress the budget for an even-numbered fiscal year under section 1105(a) of title 31.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 487 the following new item:

“488. Management of electromagnetic spectrum: biennial strategic plan.”.

**SEC. 1055. REVISION OF DEPARTMENT OF DEFENSE DIRECTIVE RELATING TO MANAGEMENT AND USE OF RADIO FREQUENCY SPECTRUM.**

Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall revise and reissue Department of Defense Directive 4650.1, relating to management and use of the radio frequency spectrum, last issued on June 24, 1987, to update the procedures applicable to Department of Defense management and use of the radio frequency spectrum and to ensure the consideration of requirements for usage of such spectrum by a system as early as practicable in the acquisition program for such system.

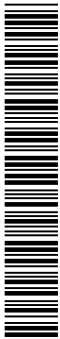
**SEC. 1056. SENSE OF CONGRESS ON DEPLOYMENT OF AIRBORNE CHEMICAL AGENT MONITORING SYSTEMS AT CHEMICAL STOCKPILE DISPOSAL SITES IN THE UNITED STATES.**

(a) FINDINGS.—The Congress makes the following findings:

(1) Over 23,700 tons of lethal chemical agents in assembled chemical weapons and bulk storage containers are stored and awaiting destruction at eight chemical agent disposal facilities and stockpile storage sites in the United States. Some of these weapons and storage containers contain GB or VX nerve agents, while others contain blister agents such as HD (mustard agent).

(2) Approximately 960,000 persons live in the vicinity of the eight chemical weapons disposal facilities and stockpile storage sites.

(3) Airborne-agent chemical monitoring systems are currently deployed at each of the chemical demilitarization facilities and stockpile storage sites to provide continuous



1 and near-real-time monitoring of the presence of chemical  
2 agents.

3 (4) The National Research Council has determined  
4 that monitoring levels used at the demilitarization facilities  
5 are very conservative and highly protective of workers and  
6 public health and safety and that the conservative moni-  
7 toring levels are a contributing factor in false positive  
8 alarms.

9 (5) The National Research Council has expressed re-  
10 peated concern about relatively frequent false positive  
11 alarms and the lack of real-time monitoring for airborne  
12 agents and has noted the poor state of agent monitoring  
13 technology for liquid waste streams and solid materials sus-  
14 pected of possible agent contamination.

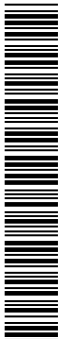
15 (6) The National Research Council has concluded that,  
16 although the Program Manager for Chemical Demilitariza-  
17 tion has made some efforts to develop better agent-moni-  
18 toring technology, results to date have been disappointing.

19 (7) The National Research Council has concluded that  
20 development and deployment of airborne-agent monitors  
21 with shorter response time and lower false alarm rates  
22 would enhance safety and reduce the tendency to discount  
23 agent alarms, and has recommended that the Program  
24 Manager for Chemical Demilitarization and the relevant  
25 Department of Defense research and development agencies  
26 should invigorate and coordinate efforts to develop chemical  
27 agent monitors with improved sensitivity, specificity, and  
28 response time.

29 (b) SENSE OF CONGRESS.—It is the sense of Congress  
30 that the Secretary of the Army—

31 (1) should, in coordination with relevant Department  
32 of Defense research and development agencies, invigorate  
33 and coordinate efforts to develop chemical agent monitors  
34 with improved sensitivity, specificity, and response time;  
35 and

36 (2) should deploy improved chemical agent monitors in  
37 order to ensure the maximum protection of the general



1 public, personnel involved in the chemical demilitarization  
2 program, and the environment.

3 **SEC. 1057. EXPANSION OF PRE-SEPTEMBER 11, 2001,**  
4 **FIRE GRANT PROGRAM OF UNITED STATES**  
5 **FIRE ADMINISTRATION.**

6 The Federal Fire Prevention and Control Act of 1974 (15  
7 U.S.C. 2201 et seq.) is amended by redesignating the second  
8 section 33 and section 34 as sections 35 and 36, respectively,  
9 and by inserting after the first section 33 the following new  
10 section:

11 **“SEC. 34. EXPANSION OF PRE-SEPTEMBER 11, 2001, FIRE**  
12 **GRANT PROGRAM.**

13 “(a) EXPANDED AUTHORITY TO MAKE GRANTS.—

14 “(1) HIRING GRANTS.—(A) The Administrator shall  
15 make grants directly to career, volunteer, and combination  
16 fire departments, in consultation with the chief executive of  
17 the State in which the applicant is located, for the purpose  
18 of increasing the number of firefighters to help commu-  
19 nities meet industry minimum standards and attain 24-  
20 hour staffing to provide adequate protection from fire and  
21 fire-related hazards, and to fulfill traditional missions of  
22 fire departments that antedate the creation of the Depart-  
23 ment of Homeland Security.

24 “(B)(i) Grants made under this paragraph shall be for  
25 4 years and be used for programs to hire new, additional  
26 firefighters.

27 “(ii) Grantees are required to commit to retaining for  
28 at least 1 year beyond the termination of their grants those  
29 firefighters hired under this paragraph.

30 “(C) In awarding grants under this subsection, the  
31 Administrator may give preferential consideration to appli-  
32 cations that involve a non-Federal contribution exceeding  
33 the minimums under subparagraph (E).

34 “(D) The Administrator may provide technical assist-  
35 ance to States, units of local government, Indian tribal gov-  
36 ernments, and to other public entities, in furtherance of the  
37 purposes of this section.



## 10–60

1 “(E) The portion of the costs of hiring firefighters  
2 provided by a grant under this paragraph may not  
3 exceed—

4 “(i) 90 percent in the first year of the grant;

5 “(ii) 80 percent in the second year of the grant;

6 “(iii) 50 percent in the third year of the grant;

7 and

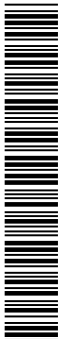
8 “(iv) 30 percent in the fourth year of the grant.

9 “(F) Notwithstanding any other provision of law, any  
10 firefighter hired with funds provided under this subsection  
11 shall not be discriminated against for, or be prohibited  
12 from, engaging in volunteer activities in another jurisdic-  
13 tion during off-duty hours.

14 “(G) All grants made pursuant to this subsection shall  
15 be awarded on a competitive basis through a neutral peer  
16 review process.

17 “(H) At the beginning of the fiscal year, the Adminis-  
18 trator shall set aside 10 percent of the funds appropriated  
19 for carrying out this paragraph for departments with ma-  
20 jority volunteer or all volunteer personnel. After awards  
21 have been made, if less than 10 percent of the funds appro-  
22 priated for carrying out this paragraph are not awarded to  
23 departments with majority volunteer or all volunteer per-  
24 sonnel, the Administrator shall transfer from funds appro-  
25 priated for carrying out this paragraph to funds available  
26 for carrying out paragraph (2) an amount equal to the dif-  
27 ference between the amount that is provided to such fire  
28 departments and 10 percent.

29 “(2) RECRUITMENT AND RETENTION GRANTS.—In ad-  
30 dition to any amounts transferred under paragraph (1)(H),  
31 the Administrator shall direct at least 10 percent of the  
32 total amount of funds appropriated pursuant to this section  
33 annually to a competitive grant program for the recruit-  
34 ment and retention of volunteer firefighters who are in-  
35 volved with or trained in the operations of firefighting and  
36 emergency response. Eligible entities shall include volunteer  
37 or combination fire departments, and organizations on a



## 10–61

1 local or statewide basis that represent the interests of vol-  
2 unteer firefighters.

3 “(b) APPLICATIONS.—(1) No grant may be made under  
4 this section unless an application has been submitted to, and  
5 approved by, the Administrator.

6 “(2) An application for a grant under this section shall be  
7 submitted in such form, and contain such information, as the  
8 Administrator may prescribe.

9 “(3) At a minimum, each application for a grant under  
10 this section shall—

11 “(A) explain the applicant’s inability to address the  
12 need without Federal assistance;

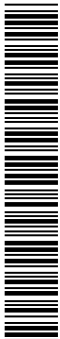
13 “(B) in the case of a grant under subsection (a)(1),  
14 explain how the applicant plans to meet the requirements  
15 of subsection (a)(1)(B)(ii) and (F);

16 “(C) specify long-term plans for retaining firefighters  
17 following the conclusion of Federal support provided under  
18 this section; and

19 “(D) provide assurances that the applicant will, to the  
20 extent practicable, seek, recruit, and hire members of racial  
21 and ethnic minority groups and women in order to increase  
22 their ranks within firefighting.

23 “(c) LIMITATION ON USE OF FUNDS.—(1) Funds made  
24 available under this section to fire departments for salaries and  
25 benefits to hire new, additional firefighters shall not be used to  
26 supplant State or local funds, or, in the case of Indian tribal  
27 governments, funds supplied by the Bureau of Indian Affairs,  
28 but shall be used to increase the amount of funds that would,  
29 in the absence of Federal funds received under this section, be  
30 made available from State or local sources, or in the case of  
31 Indian tribal governments, from funds supplied by the Bureau  
32 of Indian Affairs.

33 “(2) No grant shall be awarded pursuant to this section  
34 to a municipality or other recipient whose annual budget at the  
35 time of the application for fire-related programs and emergency  
36 response has been reduced below 80 percent of the average



## 10–62

1 funding level in the 3 years prior to the date of enactment of  
2 this section.

3 “(3) Funds appropriated by the Congress for the activities  
4 of any agency of an Indian tribal government or the Bureau  
5 of Indian Affairs performing firefighting functions on any In-  
6 dian lands may be used to provide the non-Federal share of the  
7 cost of programs or projects funded under this section.

8 “(4)(A) Total funding provided under this section over 4  
9 years for hiring a firefighter may not exceed \$100,000.

10 “(B) The \$100,000 cap shall be adjusted annually for in-  
11 flation beginning in fiscal year 2005.

12 “(d) PERFORMANCE EVALUATION.—The Administrator  
13 may require a grant recipient to submit any information the  
14 Administrator considers reasonably necessary to evaluate the  
15 program.

16 “(e) SUNSET AND REPORTS.—The authority under this  
17 section to make grants shall lapse at the conclusion of 10 years  
18 from the date of enactment of this section. Not later than 6  
19 years after the date of the enactment of this section, the Ad-  
20 ministrator shall submit a report to Congress concerning the  
21 experience with, and effectiveness of, such grants in meeting  
22 the objectives of this section. The report may include any rec-  
23 ommendations the Administrator may have for amendments to  
24 this section and related provisions of law.

25 “(f) REVOCATION OR SUSPENSION OF FUNDING.—If the  
26 Administrator determines that a grant recipient under this sec-  
27 tion is not in substantial compliance with the terms and re-  
28 quirements of an approved grant application submitted under  
29 this section, the Administrator may revoke or suspend funding  
30 of that grant, in whole or in part.

31 “(g) ACCESS TO DOCUMENTS.—(1) The Administrator  
32 shall have access for the purpose of audit and examination to  
33 any pertinent books, documents, papers, or records of a grant  
34 recipient under this section and to the pertinent books, docu-  
35 ments, papers, or records of State and local governments, per-  
36 sons, businesses, and other entities that are involved in pro-



1     grams, projects, or activities for which assistance is provided  
2     under this section.

3             “(2) Paragraph (1) shall apply with respect to audits and  
4     examinations conducted by the Comptroller General of the  
5     United States or by an authorized representative of the Comp-  
6     troller General.

7             “(h) DEFINITIONS.—In this section, the term—

8                 “(1) ‘firefighter’ has the meaning given the term ‘em-  
9     ployee in fire protection activities’ under section 3(y) of the  
10    Fair Labor Standards Act (29 U.S.C. 203(y)); and

11                “(2) ‘Indian tribe’ means a tribe, band, pueblo, nation,  
12    or other organized group or community of Indians, includ-  
13    ing an Alaska Native village (as defined in or established  
14    under the Alaska Native Claims Settlement Act (43 U.S.C.  
15    1601 et seq.)), that is recognized as eligible for the special  
16    programs and services provided by the United States to In-  
17    dians because of their status as Indians.

18             “(i) AUTHORIZATION OF APPROPRIATIONS.—There are au-  
19    thorized to be appropriated for the purposes of carrying out  
20    this section—

21                 “(1) \$1,000,000,000 for fiscal year 2004;

22                 “(2) \$1,030,000,000 for fiscal year 2005;

23                 “(3) \$1,061,000,000 for fiscal year 2006;

24                 “(4) \$1,093,000,000 for fiscal year 2007;

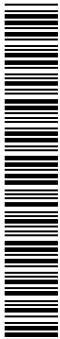
25                 “(5) \$1,126,000,000 for fiscal year 2008;

26                 “(6) \$1,159,000,000 for fiscal year 2009; and

27                 “(7) \$1,194,000,000 for fiscal year 2010.”.

28     **SEC. 1058. REVIEW AND ENHANCEMENT OF EXISTING**  
29             **AUTHORITIES FOR USING AIR FORCE AND**  
30             **AIR NATIONAL GUARD MODULAR AIRBORNE**  
31             **FIRE-FIGHTING SYSTEMS AND OTHER DE-**  
32             **PARTMENT OF DEFENSE ASSETS TO FIGHT**  
33             **WILDFIRES.**

34             (a) REVIEW REQUIRED.—The Director of the Office of  
35    Management and Budget shall conduct a review of existing au-  
36    thorities regarding the use of Air Force and Air National  
37    Guard Modular Airborne Fire-Fighting Systems units and  
38    other Department of Defense assets to fight wildfires to ensure



1 that, in accordance with applicable legal requirements, such as-  
2 sets are available in the most expeditious manner to fight  
3 wildfires on Federal lands or non-Federal lands at the request  
4 of a Federal agency or State government. In conducting the re-  
5 view, the Director shall specifically consider—

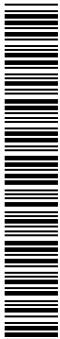
6 (1) any adverse impact caused by the restrictions con-  
7 tained in section 1535(a)(4) of title 31, United States  
8 Code, or caused by the interpretation of such restrictions,  
9 on the ability of the Forest Service and other Federal agen-  
10 cies to procure such firefighting services; and

11 (2) whether the authorities under the Robert T. Staf-  
12 ford Disaster Relief and Emergency Assistance Act (42  
13 U.S.C. 5121 et seq.), including section 403(c) of such Act  
14 (42 U.S.C. 5170b), are being properly utilized to facilitate  
15 an expeditious Department of Defense response to State re-  
16 quests under, and consistent with, such Act for firefighting  
17 services.

18 (b) DETERMINATION REQUIRED.—On the basis of the re-  
19 view, the Director shall make a determination regarding wheth-  
20 er existing authorities are being used in a manner consistent  
21 with using the available capabilities of Department of Defense  
22 assets to fight wildfires in the most expeditious and efficacious  
23 way to minimize the risk to public safety.

24 (c) EXPEDITED ECONOMY ACT REVIEW PROCESS.—If the  
25 Director determines under subsection (b) that existing authori-  
26 ties are adequate for the deployment of Department of Defense  
27 assets to fight wildfires, the Director shall develop and imple-  
28 ment, subject to subsection (f), such modifications to the proc-  
29 ess for conducting the cost comparison required by section  
30 1535(a)(4) of title 31, United States Code, as the Director con-  
31 siders appropriate to further expedite the procurement of such  
32 firefighting services.

33 (d) DEVELOPMENT AND IMPLEMENTATION OF REVISED  
34 POLICIES.—If the Director determines under subsection (b)  
35 that the existing authorities or their use is inadequate or can  
36 be improved, the Director shall develop and implement, subject  
37 to subsection (f), such regulations, policies, and interagency





## 10–65

1 procedures as may be necessary to improve the ability of the  
2 Department of Defense to respond to a request by a Federal  
3 agency or State government to assist in fighting wildfires on  
4 Federal lands or non-Federal lands under section 1535(a) of  
5 title 31, United States Code, or the Robert T. Stafford Dis-  
6 aster Relief and Emergency Assistance Act (42 U.S.C. 5121 et  
7 seq.), or both.

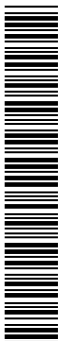
8 (e) REPORTING REQUIREMENT.—Not later than 120 days  
9 after the date of the enactment of this Act, the Director shall  
10 transmit to Congress a report—

11 (1) containing the results of the review conducted  
12 under subsection (a) and the determination made under  
13 subsection (b); and

14 (2) based on such determination, describing the modi-  
15 fications proposed to be made to existing authorities under  
16 subsection (c) or (d), including whether there is a need for  
17 legislative changes to further improve the procedures for  
18 using Department of Defense assets to fight wildfires.

19 (f) DELAYED IMPLEMENTATION.—The modifications de-  
20 scribed in the report prepared under subsection (e) to be made  
21 to existing authorities under subsection (c) or (d) shall not take  
22 effect until the end of the 30-day period beginning on the date  
23 on which the report is transmitted to Congress.





11-1

# **TITLE XI—CIVILIAN PERSONNEL MATTERS**

## **Subtitle A—Department of Defense National Security Personnel System**

Sec. 1101. Department of Defense national security personnel system.

## **Subtitle B—Department of Defense Civilian Personnel Generally**

Sec. 1111. Pilot program for improved civilian personnel management.

Sec. 1112. Clarification and revision of authority for demonstration project relating to certain acquisition personnel management policies and procedures.

Sec. 1113. Military leave for mobilized Federal civilian employees.

Sec. 1114. Restoration of annual leave for certain Department of Defense employees.

Sec. 1115. Authority to employ civilian faculty members at the Western Hemisphere Institute for Security Cooperation.

Sec. 1116. Extension of authority for experimental personnel program for scientific and technical personnel.

## **Subtitle C—Other Federal Government Civilian Personnel Matters**

Sec. 1121. Modification of the overtime pay cap.

Sec. 1122. Common occupational and health standards for differential payments as a consequence of exposure to asbestos.

Sec. 1123. Increase in annual student loan repayment authority.

Sec. 1124. Authorization for cabinet secretaries, secretaries of military departments, and heads of executive agencies to be paid on a bi-weekly basis.

Sec. 1125. Senior Executive Service and performance.

Sec. 1126. Design elements of pay-for-performance systems in demonstration projects.

Sec. 1127. Federal flexible benefits plan administrative costs.

Sec. 1128. Employee surveys.

Sec. 1129. Human capital performance fund.

## **Subtitle A—Department of Defense National Security Personnel System**

### **SEC. 1101. DEPARTMENT OF DEFENSE NATIONAL SECURITY PERSONNEL SYSTEM.**

(a) IN GENERAL.—(1) Subpart I of part III of title 5, United States Code, is amended by adding at the end the following new chapter:

### **“CHAPTER 99—DEPARTMENT OF DEFENSE NATIONAL SECURITY PERSONNEL SYSTEM**

“Sec.

“9901. Definitions.

“9902. Establishment of human resources management system.



“9903. Attracting highly qualified experts.

“9904. Special pay and benefits for certain employees outside the United States.

1     **“§ 9901. Definitions**

2             “For purposes of this chapter—

3                 “(1) the term ‘Director’ means the Director of the Of-  
4             fice of Personnel Management; and

5                 “(2) the term ‘Secretary’ means the Secretary of De-  
6             fense.

7     **“§ 9902. Establishment of human resources man-  
8             agement system**

9             “(a) IN GENERAL.—Notwithstanding any other provision  
10     of this part, the Secretary may, in regulations prescribed joint-  
11     ly with the Director, establish, and from time to time adjust,  
12     a human resources management system for some or all of the  
13     organizational or functional units of the Department of De-  
14     fense. The human resources management system established  
15     under authority of this section shall be referred to as the ‘Na-  
16     tional Security Personnel System’.

17             “(b) SYSTEM REQUIREMENTS.—Any system established  
18     under subsection (a) shall—

19                 “(1) be flexible;

20                 “(2) be contemporary;

21                 “(3) not waive, modify, or otherwise affect—

22                     “(A) the public employment principles of merit  
23             and fitness set forth in section 2301, including the  
24             principles of hiring based on merit, fair treatment with-  
25             out regard to political affiliation or other nonmerit con-  
26             siderations, equal pay for equal work, and protection of  
27             employees against reprisal for whistleblowing;

28                     “(B) any provision of section 2302, relating to  
29             prohibited personnel practices;

30                     “(C)(i) any provision of law referred to in section  
31             2302(b)(1), (8), and (9); or

32                     “(ii) any provision of law implementing any provi-  
33             sion of law referred to in section 2302(b)(1), (8), and  
34             (9) by—



## 11-3

1 “(I) providing for equal employment oppor-  
2 tunity through affirmative action; or

3 “(II) providing any right or remedy available  
4 to any employee or applicant for employment in the  
5 public service;

6 “(D) any other provision of this part (as described  
7 in subsection (d)); or

8 “(E) any rule or regulation prescribed under any  
9 provision of law referred to in this paragraph;

10 “(4) ensure that employees may organize, bargain col-  
11 lectively as provided for in this chapter, and participate  
12 through labor organizations of their own choosing in deci-  
13 sions which affect them, subject to the provisions of this  
14 chapter and any exclusion from coverage or limitation on  
15 negotiability established pursuant to law;

16 “(5) not be limited by any specific law or authority  
17 under this title, or by any rule or regulation prescribed  
18 under this title, that is waived in regulations prescribed  
19 under this chapter, subject to paragraph (3); and

20 “(6) include a performance management system that  
21 incorporates the following elements:

22 “(A) adherence to merit principles set forth in sec-  
23 tion 2301;

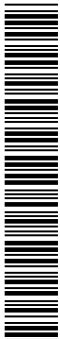
24 “(B) a fair, credible, and transparent employee  
25 performance appraisal system;

26 “(C) a link between the performance management  
27 system and the agency’s strategic plan;

28 “(D) a means for ensuring employee involvement  
29 in the design and implementation of the system;

30 “(E) adequate training and retraining for super-  
31 visors, managers, and employees in the implementation  
32 and operation of the performance management system;

33 “(F) a process for ensuring ongoing performance  
34 feedback and dialogue between supervisors, managers,  
35 and employees throughout the appraisal period, and  
36 setting timetables for review;



## 11-4

1 “(G) effective safeguards to ensure that the man-  
2 agement of the system is fair and equitable and based  
3 on employee performance;

4 “(H) a means for ensuring that adequate agency  
5 resources are allocated for the design, implementation,  
6 and administration of the performance management  
7 system; and

8 “(I) a pay-for-performance evaluation system to  
9 better link individual pay to performance, and provide  
10 an equitable method for appraising and compensating  
11 employees.

12 “(c) PERSONNEL MANAGEMENT AT DEFENSE LABORA-  
13 TORIES.—(1) The National Security Personnel System shall  
14 not apply with respect to a laboratory under paragraph (2) be-  
15 fore October 1, 2008, and shall apply on or after October 1,  
16 2008, only to the extent that the Secretary determines that the  
17 flexibilities provided by the National Security Personnel System  
18 are greater than the flexibilities provided to those laboratories  
19 pursuant to section 342 of the National Defense Authorization  
20 Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat.  
21 2721) and section 1101 of the Strom Thurmond National De-  
22 fense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104  
23 note), respectively.

24 “(2) The laboratories to which this subsection applies  
25 are—

26 “(A) the Aviation and Missile Research Development  
27 and Engineering Center;

28 “(B) the Army Research Laboratory;

29 “(C) the Medical Research and Materiel Command;

30 “(D) the Engineer Research and Development Com-  
31 mand;

32 “(E) the Communications-Electronics Command;

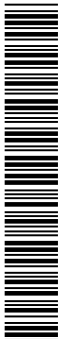
33 “(F) the Soldier and Biological Chemical Command;

34 “(G) the Naval Sea Systems Command Centers;

35 “(H) the Naval Research Laboratory;

36 “(I) the Office of Naval Research; and

37 “(J) the Air Force Research Laboratory.



## 11–5

1 “(d) OTHER NONWAIVABLE PROVISIONS.—The other pro-  
2 visions of this part referred to in subsection (b)(3)(D) are (to  
3 the extent not otherwise specified in this title)—

4 “(1) subparts A, B, E, G, and H of this part; and

5 “(2) chapters 41, 45, 47, 55 (except subchapter V  
6 thereof, apart from section 5545b), 57, 59, 71, 72, 73, and  
7 79, and this chapter.

8 “(e) LIMITATIONS RELATING TO PAY.—(1) Nothing in  
9 this section shall constitute authority to modify the pay of any  
10 employee who serves in an Executive Schedule position under  
11 subchapter II of chapter 53.

12 “(2) Except as provided for in paragraph (1), the total  
13 amount in a calendar year of allowances, differentials, bonuses,  
14 awards, or other similar cash payments paid under this title to  
15 any employee who is paid under section 5376 or 5383 or under  
16 title 10 or under other comparable pay authority established  
17 for payment of Department of Defense senior executive or  
18 equivalent employees may not exceed the total annual com-  
19 pensation payable to the Vice President under section 104 of  
20 title 3.

21 “(3) To the maximum extent practicable, the rates of com-  
22 pensation for civilian employees at the Department of Defense  
23 shall be adjusted at the same rate, and in the same proportion,  
24 as are rates of compensation for members of the uniformed  
25 services.

26 “(4) To the maximum extent practicable, for fiscal years  
27 2004 through 2008, the overall amount allocated for compensa-  
28 tion of the civilian employees of an organizational or functional  
29 unit of the Department of Defense that is included in the Na-  
30 tional Security Personnel System shall not be less than the  
31 amount that would have been allocated for compensation of  
32 such employees for such fiscal year if they had not been con-  
33 verted to the National Security Personnel System, based on, at  
34 a minimum—

35 “(A) the number and mix of employees in such organi-  
36 zational or functional unit prior to the conversion of such  
37 employees to the National Security Personnel System; and



## 11-6

1 “(B) adjusted for normal step increases and rates of  
2 promotion that would have been expected, had such em-  
3 ployees remained in their previous pay schedule.

4 “(5) To the maximum extent practicable, the regulations  
5 implementing the National Security Personnel System shall  
6 provide a formula for calculating the overall amount to be allo-  
7 cated for fiscal years after fiscal year 2008 for compensation  
8 of the civilian employees of an organization or functional unit  
9 of the Department of Defense that is included in the National  
10 Security Personnel System. The formula shall ensure that in  
11 the aggregate, employees are not disadvantaged in terms of the  
12 overall amount of pay available as a result of conversion to the  
13 National Security Personnel System, while providing flexibility  
14 to accommodate changes in the function of the organization,  
15 changes in the mix of employees performing those functions,  
16 and other changed circumstances that might impact pay levels.

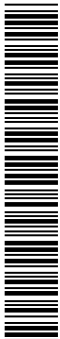
17 “(f) PROVISIONS TO ENSURE COLLABORATION WITH EM-  
18 PLOYEE REPRESENTATIVES.—(1) In order to ensure that the  
19 authority of this section is exercised in collaboration with, and  
20 in a manner that ensures the participation of, employee rep-  
21 resentatives in the planning, development, and implementation  
22 of the National Security Personnel System, the Secretary and  
23 the Director shall provide for the following:

24 “(A) The Secretary and the Director shall, with re-  
25 spect to any proposed system—

26 “(i) provide to the employee representatives rep-  
27 resenting any employees who might be affected a writ-  
28 ten description of the proposed system or adjustment  
29 (including the reasons why it is considered necessary);

30 “(ii) give such representatives at least 30 calendar  
31 days (unless extraordinary circumstances require ear-  
32 lier action) to review and make recommendations with  
33 respect to the proposal; and

34 “(iii) give any recommendations received from  
35 such representatives under clause (ii) full and fair con-  
36 sideration in deciding whether or how to proceed with  
37 the proposal.





## 11-7

1 “(B) Following receipt of recommendations, if any,  
2 from such employee representatives with respect to a pro-  
3 posal described in subparagraph (A), the Secretary and the  
4 Director shall accept such modifications to the proposal in  
5 response to the recommendations as they determine advis-  
6 able and shall, with respect to any parts of the proposal as  
7 to which they have not accepted the recommendations—

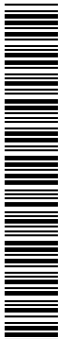
8 “(i) notify Congress of those parts of the proposal,  
9 together with the recommendations of the employee  
10 representatives;

11 “(ii) meet and confer for not less than 30 calendar  
12 days with the employee representatives, in order to at-  
13 tempt to reach agreement on whether or how to pro-  
14 ceed with those parts of the proposal; and

15 “(iii) at the Secretary’s option, or if requested by  
16 a majority of the employee representatives partici-  
17 pating, use the services of the Federal Mediation and  
18 Conciliation Service during such meet and confer pe-  
19 riod to facilitate the process of attempting to reach  
20 agreement.

21 “(C)(i) Any part of the proposal as to which the rep-  
22 resentatives do not make a recommendation, or as to which  
23 the recommendations are accepted by the Secretary and the  
24 Director, may be implemented immediately.

25 “(ii) With respect to any parts of the proposal as to  
26 which recommendations have been made but not accepted  
27 by the Secretary and the Director, at any time after 30 cal-  
28 endar days have elapsed since the initiation of the congres-  
29 sional notification, consultation, and mediation procedures  
30 set forth in subparagraph (B), if the Secretary, in his dis-  
31 cretion, determines that further consultation and mediation  
32 is unlikely to produce agreement, the Secretary may imple-  
33 ment any or all of such parts (including any modifications  
34 made in response to the recommendations as the Secretary  
35 determines advisable), but only after 30 days have elapsed  
36 after notifying Congress of the decision to implement the  
37 part or parts involved (as so modified, if applicable).



1           “(iii) The Secretary shall notify Congress promptly of  
2           the implementation of any part of the proposal and shall  
3           furnish with such notice an explanation of the proposal,  
4           any changes made to the proposal as a result of rec-  
5           ommendations from the employee representatives, and of  
6           the reasons why implementation is appropriate under this  
7           subparagraph.

8           “(D) If a proposal described in subparagraph (A) is  
9           implemented, the Secretary and the Director shall—

10           “(i) develop a method for the employee representa-  
11           tives to participate in any further planning or develop-  
12           ment which might become necessary; and

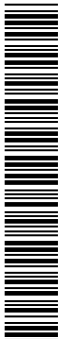
13           “(ii) give the employee representatives adequate  
14           access to information to make that participation pro-  
15           ductive.

16           “(2) The Secretary may, at the Secretary’s discretion, en-  
17           gage in any and all collaboration activities described in this  
18           subsection at an organizational level above the level of exclusive  
19           recognition.

20           “(3) In the case of any employees who are not within a  
21           unit with respect to which a labor organization is accorded ex-  
22           clusive recognition, the Secretary and the Director may develop  
23           procedures for representation by any appropriate organization  
24           which represents a substantial percentage of those employees  
25           or, if none, in such other manner as may be appropriate, con-  
26           sistent with the purposes of this subsection.

27           “(4) The procedures under this subsection are the exclu-  
28           sive procedures for the participation of employee representa-  
29           tives in the planning, development, implementation, or adjust-  
30           ment of the National Security Personnel System.

31           “(g) PROVISIONS REGARDING NATIONAL LEVEL BAR-  
32           GAINING.—(1) The National Security Personnel System imple-  
33           mented or modified under this chapter may include employees  
34           of the Department of Defense from any bargaining unit with  
35           respect to which a labor organization has been accorded exclu-  
36           sive recognition under chapter 71.



11-9

1 “(2) For any bargaining unit so included under paragraph  
2 (1), the Secretary may bargain with a labor organization at an  
3 organizational level above the level of exclusive recognition. The  
4 decision to bargain at a level above the level of exclusive rec-  
5 ognition shall not be subject to review or to statutory third-  
6 party dispute resolution procedures outside the Department of  
7 Defense. Any such bargaining shall—

8 “(A) be binding on all subordinate bargaining units of  
9 the labor organization at the level of recognition and their  
10 exclusive representatives, and the Department of Defense  
11 and its subcomponents, without regard to levels of recogni-  
12 tion;

13 “(B) supersede all other collective bargaining agree-  
14 ments of the labor organization, including collective bar-  
15 gaining agreements negotiated with an exclusive represent-  
16 ative at the level of recognition, except as otherwise deter-  
17 mined by the Secretary;

18 “(C) not be subject to further negotiations with the  
19 labor organizations for any purpose, including bargaining  
20 at the level of recognition, except as provided for by the  
21 Secretary; and

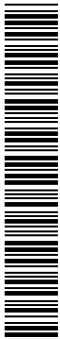
22 “(D) be subject to review by an independent third  
23 party only to the extent provided and pursuant to proce-  
24 dures established under paragraph (6) of subsection (m).

25 “(3) The National Guard Bureau and the Army and Air  
26 Force National Guard are excluded from coverage under this  
27 subsection.

28 “(4) Any bargaining completed pursuant to this subsection  
29 with a labor organization not otherwise having national con-  
30 sultation rights with the Department of Defense or its sub-  
31 components shall not create any obligation on the Department  
32 of Defense or its subcomponents to confer national consultation  
33 rights on such a labor organization.

34 “(h) PROVISIONS RELATING TO APPELLATE PROCE-  
35 DURES.—(1) The Secretary—

36 “(A) may establish an appeals process that provides  
37 employees of the Department of Defense organizational and



## 11-10

1 functional units that are included in the National Security  
2 Personnel System fair treatment in any appeals that they  
3 bring in decisions relating to their employment; and

4 “(B) shall in prescribing regulations for any such ap-  
5 peals process—

6 “(i) ensure that employees in the National Secu-  
7 rity Personnel System are afforded the protections of  
8 due process; and

9 “(ii) toward that end, be required to consult with  
10 the Merit Systems Protection Board before issuing any  
11 such regulations.

12 “(2) Regulations implementing the appeals process may  
13 establish legal standards and procedures for personnel actions,  
14 including standards for applicable relief, to be taken on the  
15 basis of employee misconduct or performance that fails to meet  
16 expectations. Such standards shall be consistent with the public  
17 employment principles of merit and fitness set forth in section  
18 2301.

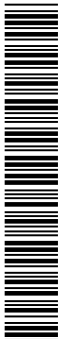
19 “(3) Legal standards and precedents applied before the ef-  
20 fective date of this section by the Merit Systems Protection  
21 Board and the courts under chapters 43, 75, and 77 of this  
22 title shall apply to employees of organizational and functional  
23 units included in the National Security Personnel System, un-  
24 less such standards and precedents are inconsistent with legal  
25 standards established under this subsection.

26 “(4) An employee who—

27 “(A) is removed, suspended for more than 14 days,  
28 furloughed for 30 days or less, reduced in pay, or reduced  
29 in pay band (or comparable reduction) by a final decision  
30 under the appeals process established under paragraph (1);

31 “(B) is not serving under probationary period as de-  
32 fined under regulations established under paragraph (2);  
33 and

34 “(C) would otherwise be eligible to appeal a perform-  
35 ance-based or adverse action under chapter 43 or 75, as  
36 applicable, to the Merit Systems Protection Board,



11-11

1 shall have the right to petition the full Merit Systems Protec-  
2 tion Board for review of the record of that decision pursuant  
3 to regulations established under paragraph (2). The Board may  
4 dismiss any petition that, in the view of the Board, does not  
5 raise substantial questions of fact or law. No personnel action  
6 shall be stayed and no interim relief shall be granted during  
7 the pendency of the Board's review unless specifically ordered  
8 by the Board.

9 “(5) The Board may order such corrective action as the  
10 Board considers appropriate only if the Board determines that  
11 the decision was—

12 “(A) arbitrary, capricious, an abuse of discretion, or  
13 otherwise not in accordance with law;

14 “(B) obtained without procedures required by law,  
15 rule, or regulation having been followed; or

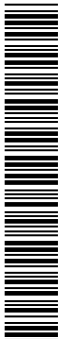
16 “(C) unsupported by substantial evidence.

17 “(6) An employee who is adversely affected by a final  
18 order or decision of the Board may obtain judicial review of the  
19 order or decision as provided in section 7703. The Secretary of  
20 Defense, after notifying the Director, may obtain judicial re-  
21 view of any final order or decision of the Board under the same  
22 terms and conditions as provided an employee.

23 “(7) Nothing in this subsection shall be construed to au-  
24 thorize the waiver of any provision of law, including an appeals  
25 provision providing a right or remedy under section 2302(b)  
26 (1), (8) or (9), that is not otherwise waivable under subsection  
27 (a).

28 “(8) The right of an employee to petition the Merit Sys-  
29 tems Protection Board of the Department's final decision on an  
30 action covered by paragraph (4) of this subsection, and the  
31 right of the Merit Systems Protection Board to review such ac-  
32 tion or to order corrective action pursuant to paragraph (5), is  
33 provisional for 7 years after the date of the enactment of this  
34 chapter, and shall become permanent unless Congress acts to  
35 revise such provisions.

36 “(i) PROVISIONS RELATED TO SEPARATION AND RETIRE-  
37 MENT INCENTIVES.—(1) The Secretary may establish a pro-



## 11-12

1 gram within the Department of Defense under which employees  
2 may be eligible for early retirement, offered separation incen-  
3 tive pay to separate from service voluntarily, or both. This au-  
4 thority may be used to reduce the number of personnel em-  
5 ployed by the Department of Defense or to restructure the  
6 workforce to meet mission objectives without reducing the over-  
7 all number of personnel. This authority is in addition to, and  
8 notwithstanding, any other authorities established by law or  
9 regulation for such programs.

10 “(2)(A) The Secretary may not authorize the payment of  
11 voluntary separation incentive pay under paragraph (1) to more  
12 than 25,000 employees in any fiscal year, except that employ-  
13 ees who receive voluntary separation incentive pay as a result  
14 of a closure or realignment of a military installation under the  
15 Defense Base Closure and Realignment Act of 1990 (title  
16 XXIX of Public Law 101-510; 10 U.S.C. 2687 note) shall not  
17 be included in that number.

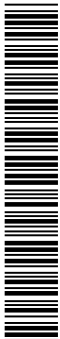
18 “(B) The Secretary shall prepare a report each fiscal year  
19 setting forth the number of employees who received such pay  
20 as a result of a closure or realignment of a military base as  
21 described under subparagraph (A).

22 “(C) The Secretary shall submit the report under subpara-  
23 graph (B) to the Committee on Armed Services and the Com-  
24 mittee on Governmental Affairs of the Senate, and the Com-  
25 mittee on Armed Services and the Committee on Government  
26 Reform of the House of Representatives.

27 “(3) For purposes of this section, the term ‘employee’  
28 means an employee of the Department of Defense, serving  
29 under an appointment without time limitation, except that such  
30 term does not include—

31 “(A) a reemployed annuitant under subchapter III of  
32 chapter 83 or chapter 84, or another retirement system for  
33 employees of the Federal Government;

34 “(B) an employee having a disability on the basis of  
35 which such employee is or would be eligible for disability  
36 retirement under any of the retirement systems referred to  
37 in subparagraph (A); or



## 11-13

1 “(C) for purposes of eligibility for separation incen-  
2 tives under this section, an employee who is in receipt of  
3 a decision notice of involuntary separation for misconduct  
4 or unacceptable performance.

5 “(4) An employee who is at least 50 years of age and has  
6 completed 20 years of service, or has at least 25 years of serv-  
7 ice, may, pursuant to regulations promulgated under this sec-  
8 tion, apply and be retired from the Department of Defense and  
9 receive benefits in accordance with chapter 83 or 84 if the em-  
10 ployee has been employed continuously within the Department  
11 of Defense for more than 30 days before the date on which the  
12 determination to conduct a reduction or restructuring within 1  
13 or more Department of Defense components is approved.

14 “(5)(A) Separation pay shall be paid in a lump sum or in  
15 installments and shall be equal to the lesser of—

16 “(i) an amount equal to the amount the employee  
17 would be entitled to receive under section 5595(c), if the  
18 employee were entitled to payment under such section; or

19 “(ii) \$25,000.

20 “(B) Separation pay shall not be a basis for payment, and  
21 shall not be included in the computation, of any other type of  
22 Government benefit. Separation pay shall not be taken into ac-  
23 count for the purpose of determining the amount of any sever-  
24 ance pay to which an individual may be entitled under section  
25 5595, based on any other separation.

26 “(C) Separation pay, if paid in installments, shall cease to  
27 be paid upon the recipient’s acceptance of employment by the  
28 Federal Government, or commencement of work under a per-  
29 sonal services contract as described in paragraph (6).

30 “(6)(A) An employee who receives separation pay under  
31 such program may not be reemployed by the Department of  
32 Defense for a 12-month period beginning on the effective date  
33 of the employee’s separation, unless this prohibition is waived  
34 by the Secretary on a case-by-case basis.

35 “(B) An employee who receives separation pay under this  
36 section on the basis of a separation occurring on or after the  
37 date of the enactment of the Federal Workforce Restructuring



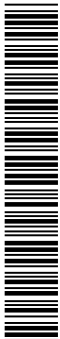
## 11–14

1 Act of 1994 (Public Law 103–236; 108 Stat. 111) and accepts  
2 employment with the Government of the United States, or who  
3 commences work through a personal services contract with the  
4 United States within 5 years after the date of the separation  
5 on which payment of the separation pay is based, shall be re-  
6 quired to repay the entire amount of the separation pay to the  
7 Department of Defense. If the employment is with an Execu-  
8 tive agency (as defined by section 105) other than the Depart-  
9 ment of Defense, the Director may, at the request of the head  
10 of that agency, waive the repayment if the individual involved  
11 possesses unique abilities and is the only qualified applicant  
12 available for the position. If the employment is within the De-  
13 partment of Defense, the Secretary may waive the repayment  
14 if the individual involved is the only qualified applicant avail-  
15 able for the position. If the employment is with an entity in the  
16 legislative branch, the head of the entity or the appointing offi-  
17 cial may waive the repayment if the individual involved pos-  
18 sesses unique abilities and is the only qualified applicant avail-  
19 able for the position. If the employment is with the judicial  
20 branch, the Director of the Administrative Office of the United  
21 States Courts may waive the repayment if the individual in-  
22 volved possesses unique abilities and is the only qualified appli-  
23 cant available for the position.

24 “(7) Under this program, early retirement and separation  
25 pay may be offered only pursuant to regulations established by  
26 the Secretary, subject to such limitations or conditions as the  
27 Secretary may require.

28 “(j) PROVISIONS RELATING TO REEMPLOYMENT.—If an  
29 annuitant receiving an annuity from the Civil Service Retire-  
30 ment and Disability Fund becomes employed in a position with-  
31 in the Department of Defense, his annuity shall continue. An  
32 annuitant so reemployed shall not be considered an employee  
33 for purposes of chapter 83 or 84.

34 “(k) ADDITIONAL PROVISIONS RELATING TO PERSONNEL  
35 MANAGEMENT.—(1) Notwithstanding subsection (d), the Sec-  
36 retary of Defense, in establishing and implementing the Na-  
37 tional Security Personnel System under subsection (a), shall





## 11–15

1 not be limited by any provision of this title or any rule or regu-  
2 lation prescribed under this title in establishing and imple-  
3 menting regulations relating to—

4 “(A) the methods of establishing qualification require-  
5 ments for, recruitment for, and appointments to positions;

6 “(B) the methods of assigning, reassigning, detailing,  
7 transferring, or promoting employees; and

8 “(C) the methods of reducing overall agency staff and  
9 grade levels, except that performance, veterans’ preference,  
10 tenure of employment, length of service, and such other  
11 factors as the Secretary considers necessary and appro-  
12 priate shall be considered in decisions to realign or reorga-  
13 nize the Department’s workforce.

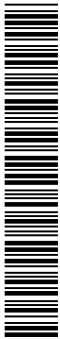
14 “(2) In implementing this subsection, the Secretary shall  
15 comply with the provisions of section 2302(b)(11), regarding  
16 veterans’ preference requirements, as provided for in subsection  
17 (b)(3).

18 “(l) PHASE-IN.—The Secretary may apply the National  
19 Security Personnel System—

20 “(1) to an organizational or functional unit that in-  
21 cludes up to 300,000 civilian employees of the Department  
22 of Defense, without having to make a determination de-  
23 scribed in paragraph (2); and

24 “(2) to an organizational or functional unit that in-  
25 cludes more than 300,000 civilian employees of the Depart-  
26 ment of Defense, if the Secretary determines in accordance  
27 with subsection (a) that the Department has in place a per-  
28 formance management system that meets the criteria speci-  
29 fied in subsection (b).

30 “(m) LABOR MANAGEMENT RELATIONS IN THE DEPART-  
31 MENT OF DEFENSE.—(1) Notwithstanding section 9902(d)(2),  
32 the Secretary, together with the Director, may establish and  
33 from time to time adjust a labor relations system for the De-  
34 partment of Defense to address the unique role that the De-  
35 partment’s civilian workforce plays in supporting the Depart-  
36 ment’s national security mission.



## 11-16

1 “(2) The system developed or adjusted under paragraph  
2 (1) would allow for a collaborative issue-based approach to  
3 labor management relations.

4 “(3) In order to ensure that the authority of this section  
5 is exercised in collaboration with, and in a manner that ensures  
6 the participation of, employee representatives in the develop-  
7 ment and implementation of the labor management relations  
8 system or adjustments to such system under this section, the  
9 Secretary shall provide for the following:

10 “(A) The Secretary and the Director shall, with re-  
11 spect to any proposed system or adjustment—

12 “(i) afford employee representatives and manage-  
13 ment the opportunity to have meaningful discussions  
14 concerning the development of the new system;

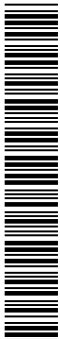
15 “(ii) give such representatives at least 30 calendar  
16 days (unless extraordinary circumstances require ear-  
17 lier action) to review the proposal for the system and  
18 make recommendations with respect to it; and

19 “(iii) give any recommendations received from  
20 such representatives under clause (ii) full and fair con-  
21 sideration.

22 “(B) Following receipt of recommendations, if any,  
23 from such employee representatives with respect to a pro-  
24 posal described in subparagraph (A), the Secretary and the  
25 Director shall accept such modifications to the proposal in  
26 response to the recommendations as are determined advis-  
27 able and shall, with respect to any parts of the proposal as  
28 to which they have not accepted the recommendations—

29 “(i) meet and confer for not less than 30 calendar  
30 days with the employee representatives, in order to at-  
31 tempt to reach agreement on whether or how to pro-  
32 ceed with those parts of the proposal; and

33 “(ii) at the Secretary’s option, or if requested by  
34 a majority of the employee representatives partici-  
35 pating, use the services of the Federal Mediation and  
36 Conciliation Service during such meet and confer pe-



## 11-17

1           riod to facilitate the process of attempting to reach  
2           agreement.

3           “(C)(i) Any part of the proposal described in subpara-  
4           graph (A) as to which employee representatives do not  
5           make a recommendation, or as to which the recommenda-  
6           tions are accepted under subparagraph (B), may be imple-  
7           mented immediately.

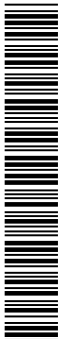
8           “(ii) With respect to any parts of the proposal as to  
9           which recommendations have been made but not accepted,  
10          at any time after 30 calendar days have elapsed since the  
11          consultation and mediation procedures set forth in subpara-  
12          graph (B), if the Secretary, in his discretion, determines  
13          that further consultation and mediation is unlikely to  
14          produce agreement, the Secretary may implement any or all  
15          of such parts (including any modifications made in re-  
16          sponse to the recommendations as the Secretary determines  
17          advisable), but only after 30 days have elapsed after noti-  
18          fying Congress of the decision to implement the part or  
19          parts involved (as so modified, if applicable).

20          “(D) The process for collaborating with employee rep-  
21          resentatives provided for under this subsection shall begin  
22          no later than 60 calendar days after the date of enactment  
23          of this subsection.

24          “(4) The Secretary may engage in any and all collabora-  
25          tion activities described in this subsection at an organizational  
26          level above the level of exclusive recognition.

27          “(5) The system developed or adjusted under this sub-  
28          section may incorporate the authority to bargain at a level  
29          above the level of exclusion recognition provided for in sub-  
30          section (g) of this section, but may not abrogate or modify the  
31          authority provided for in that subsection. Notwithstanding this  
32          subsection, the Secretary may, at his discretion, implement the  
33          authority in subsection (g) immediately upon enactment of this  
34          subsection.

35          “(6) The labor relations system developed or adjusted  
36          under this subsection shall provide for independent third party  
37          review of decisions, including defining what decisions are re-



1 viewable by the third party, what third party would conduct the  
2 review, and the standard or standards for that review.

3 “(7) Nothing in this section, including the authority pro-  
4 vided to waive, modify, or otherwise affect provisions of law not  
5 listed in subsections (b) and (c) as nonwaivable, shall be con-  
6 strued to expand the scope of bargaining under chapter 71 or  
7 this subsection with respect to any provision of this title that  
8 may be waived, modified, or otherwise affected under this sec-  
9 tion.

10 “(8) The labor relations system developed or adjusted  
11 under this subsection shall be binding on all bargaining units  
12 within the Department of Defense, all employee representatives  
13 of such units, and the Department of Defense and its sub-  
14 components, and shall supersede all other collective bargaining  
15 agreements for bargaining units in the Department of Defense,  
16 including collective bargaining agreements negotiated with em-  
17 ployee representatives at the level of recognition, except as oth-  
18 erwise determined by the Secretary.

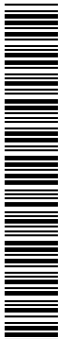
19 “(9) Unless it is extended or otherwise provided for in law,  
20 the authority to establish, implement and adjust the labor rela-  
21 tions system developed under this subsection shall expire six  
22 years after the date of enactment of this subsection, at which  
23 time the provisions of chapter 71 will apply.

24 **“§ 9903. Attracting highly qualified experts**

25 “(a) IN GENERAL.—The Secretary may carry out a pro-  
26 gram using the authority provided in subsection (b) in order to  
27 attract highly qualified experts in needed occupations, as deter-  
28 mined by the Secretary.

29 “(b) AUTHORITY.—Under the program, the Secretary  
30 may—

31 “(1) appoint personnel from outside the civil service  
32 and uniformed services (as such terms are defined in sec-  
33 tion 2101) to positions in the Department of Defense with-  
34 out regard to any provision of this title governing the ap-  
35 pointment of employees to positions in the Department of  
36 Defense;



## 11–19

1 “(2) prescribe the rates of basic pay for positions to  
2 which employees are appointed under paragraph (1) at  
3 rates not in excess of the maximum rate of basic pay au-  
4 thorized for senior-level positions under section 5376, as in-  
5 creased by locality-based comparability payments under  
6 section 5304, notwithstanding any provision of this title  
7 governing the rates of pay or classification of employees in  
8 the executive branch; and

9 “(3) pay any employee appointed under paragraph (1)  
10 payments in addition to basic pay within the limits applica-  
11 ble to the employee under subsection (d).

12 “(c) LIMITATION ON TERM OF APPOINTMENT.—(1) Ex-  
13 cept as provided in paragraph (2), the service of an employee  
14 under an appointment made pursuant to this section may not  
15 exceed 5 years.

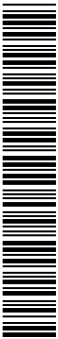
16 “(2) The Secretary may, in the case of a particular em-  
17 ployee, extend the period to which service is limited under para-  
18 graph (1) by up to 1 additional year if the Secretary deter-  
19 mines that such action is necessary to promote the Department  
20 of Defense’s national security missions.

21 “(d) LIMITATIONS ON ADDITIONAL PAYMENTS.—(1) The  
22 total amount of the additional payments paid to an employee  
23 under this section for any 12-month period may not exceed the  
24 lesser of the following amounts:

25 “(A) \$50,000 in fiscal year 2004, which may be ad-  
26 justed annually thereafter by the Secretary, with a percent-  
27 age increase equal to one-half of 1 percentage point less  
28 than the percentage by which the Employment Cost Index,  
29 published quarterly by the Bureau of Labor Statistics, for  
30 the base quarter of the year before the preceding calendar  
31 year exceeds the Employment Cost Index for the base quar-  
32 ter of the second year before the preceding calendar year.

33 “(B) The amount equal to 50 percent of the employ-  
34 ee’s annual rate of basic pay.

35 For purposes of this paragraph, the term ‘base quarter’ has the  
36 meaning given such term by section 5302(3).



1 “(2) An employee appointed under this section is not eligi-  
2 ble for any bonus, monetary award, or other monetary incentive  
3 for service except for payments authorized under this section.

4 “(3) Notwithstanding any other provision of this sub-  
5 section or of section 5307, no additional payments may be paid  
6 to an employee under this section in any calendar year if, or  
7 to the extent that, the employee’s total annual compensation  
8 will exceed the maximum amount of total annual compensation  
9 payable at the salary set in accordance with section 104 of title  
10 3.

11 “(e) LIMITATION ON NUMBER OF HIGHLY QUALIFIED EX-  
12 PERTS.—The number of highly qualified experts appointed and  
13 retained by the Secretary under subsection (b)(1) shall not ex-  
14 ceed 2,500 at any time.

15 “(f) SAVINGS PROVISIONS.—In the event that the Sec-  
16 retary terminates this program, in the case of an employee  
17 who, on the day before the termination of the program, is serv-  
18 ing in a position pursuant to an appointment under this  
19 section—

20 “(1) the termination of the program does not termi-  
21 nate the employee’s employment in that position before the  
22 expiration of the lesser of—

23 “(A) the period for which the employee was ap-  
24 pointed; or

25 “(B) the period to which the employee’s service is  
26 limited under subsection (c), including any extension  
27 made under this section before the termination of the  
28 program; and

29 “(2) the rate of basic pay prescribed for the position  
30 under this section may not be reduced as long as the em-  
31 ployee continues to serve in the position without a break in  
32 service.

33 **“§ 9904. Special pay and benefits for certain em-**  
34 **ployees outside the United States**

35 “The Secretary may provide to certain civilian employees  
36 of the Department of Defense assigned to activities outside the  
37 United States as determined by the Secretary to be in support



## 11-21

1 of Department of Defense activities abroad hazardous to life or  
2 health or so specialized because of security requirements as to  
3 be clearly distinguishable from normal Government  
4 employment—

5 “(1) allowances and benefits—

6 “(A) comparable to those provided by the Sec-  
7 retary of State to members of the Foreign Service  
8 under chapter 9 of title I of the Foreign Service Act  
9 of 1980 (Public Law 96-465, 22 U.S.C. 4081 et seq.)  
10 or any other provision of law; or

11 “(B) comparable to those provided by the Director  
12 of Central Intelligence to personnel of the Central In-  
13 telligence Agency; and

14 “(2) special retirement accrual benefits and disability  
15 in the same manner provided for by the Central Intel-  
16 ligence Agency Retirement Act (50 U.S.C. 2001 et seq.)  
17 and in section 18 of the Central Intelligence Agency Act of  
18 1949 (50 U.S.C. 403r).”.

19 (2) The table of chapters for part III of such title is  
20 amended by adding at the end of subpart I the following new  
21 item:

“99. Department of Defense National Security Personnel System .....9901”.

22 (b) IMPACT ON DEPARTMENT OF DEFENSE CIVILIAN PER-  
23 SONNEL.—(1) Any exercise of authority under chapter 99 of  
24 such title (as added by subsection (a)), including under any  
25 system established under such chapter, shall be in conformance  
26 with the requirements of this subsection.

27 (2) No other provision of this Act or of any amendment  
28 made by this Act may be construed or applied in a manner so  
29 as to limit, supersede, or otherwise affect the provisions of this  
30 section, except to the extent that it does so by specific reference  
31 to this section.



11-22

**Subtitle B—Department of Defense  
Civilian Personnel Generally**

**SEC. 1111. PILOT PROGRAM FOR IMPROVED CIVILIAN  
PERSONNEL MANAGEMENT.**

(a) PILOT PROGRAM.—The Secretary of Defense may carry out a pilot program using an automated workforce management system to demonstrate improved efficiency in the performance of civilian personnel management. The automated workforce management system used for the pilot program shall be capable of automating the following workforce management functions:

- (1) Job definition.
- (2) Position management.
- (3) Recruitment.
- (4) Staffing.
- (5) Performance management.

(b) AUTHORITIES UNDER PILOT PROGRAM.—Under the pilot program, the Secretary of Defense shall provide the Secretary of each military department with the authority for the following:

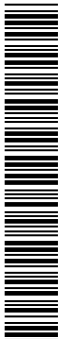
(1) To use an automated workforce management system for the civilian workforce of that military department to assess the potential of such a system to do the following:

- (A) Substantially reduce hiring cycle times.
- (B) Lower labor costs.
- (C) Increase efficiency.
- (D) Improve performance management.
- (E) Provide better management reporting.
- (F) Enable that system to make operational new

personnel management flexibilities granted under the civilian personnel transformation program.

(2) Identify at least one regional civilian personnel center (or equivalent) in that military department for participation in the pilot program.

(c) DURATION OF PILOT PROGRAM.—The Secretary of Defense may carry out the pilot program under this section at





11-23

1 each selected regional civilian personnel center for a period of  
2 two years beginning not later than March 1, 2004.

3 **SEC. 1112. CLARIFICATION AND REVISION OF AUTHOR-**  
4 **ITY FOR DEMONSTRATION PROJECT RELAT-**  
5 **ING TO CERTAIN ACQUISITION PERSONNEL**  
6 **MANAGEMENT POLICIES AND PROCEDURES.**

7 Section 4308 of the National Defense Authorization Act  
8 for Fiscal Year 1996 (10 U.S.C. 1701 note) is amended—

9 (1) in subsection (b), by striking paragraph (3) and  
10 inserting the following:

11 “(3) CONDITIONS.—Paragraph (2) shall not apply  
12 with respect to a demonstration project unless—

13 “(A) for each organization or team participating  
14 in the demonstration project—

15 “(i) at least one-third of the workforce partici-  
16 pating in the demonstration project consists of  
17 members of the acquisition workforce; and

18 “(ii) at least two-thirds of the workforce par-  
19 ticipating in the demonstration project consists of  
20 members of the acquisition workforce and sup-  
21 porting personnel assigned to work directly with  
22 the acquisition workforce; and

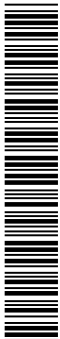
23 “(B) the demonstration project commences before  
24 October 1, 2007.”;

25 (2) in subsection (d), by striking “95,000” and insert-  
26 ing “120,000”;

27 (3) by redesignating subsection (e) as subsection (f);  
28 and

29 (4) by inserting after subsection (d) the following:

30 “(e) EFFECT OF REORGANIZATIONS.—The applicability of  
31 paragraph (2) of subsection (b) to an organization or team  
32 shall not terminate by reason that the organization or team,  
33 after having satisfied the conditions in paragraph (3) of such  
34 subsection when it began to participate in a demonstration  
35 project under this section, ceases to meet one or both of the  
36 conditions set forth in subparagraph (A) of such paragraph (3)



1 as a result of a reorganization, restructuring, realignment, con-  
2 solidation, or other organizational change.”.

3 **SEC. 1113. MILITARY LEAVE FOR MOBILIZED FEDERAL**  
4 **CIVILIAN EMPLOYEES.**

5 (a) IN GENERAL.—Subsection (b) of section 6323 of title  
6 5, United States Code, is amended—

7 (1) in paragraph (2)—

8 (A) by redesignating subparagraphs (A) and (B)  
9 as clauses (i) and (ii), respectively, and at the end of  
10 clause (ii), as so redesignated, by inserting “or”; and  
11 (B) by inserting “(A)” after “(2)”; and

12 (2) by inserting the following before the text beginning  
13 with “is entitled”:

14 “(B) performs full-time military service as a result of  
15 a call or order to active duty in support of a contingency  
16 operation as defined in section 101(a)(13) of title 10;”.

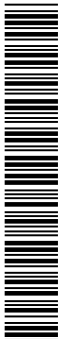
17 (b) EFFECTIVE DATE.—The amendments made by sub-  
18 section (a) shall apply to military service performed on or after  
19 the date of the enactment of this Act.

20 **SEC. 1114. RESTORATION OF ANNUAL LEAVE FOR CER-**  
21 **TAIN DEPARTMENT OF DEFENSE EMPLOY-**  
22 **EES.**

23 (a) RESTORATION OF ANNUAL LEAVE.—During the period  
24 October 1, 1992, through December 31, 1997, all employees  
25 transferring from a closing or realigning Department of De-  
26 fense installation or activity as defined under section  
27 6304(d)(3) of title 5, United States Code, to another Depart-  
28 ment of Defense installation or activity—

29 (1) may be deemed eligible by the Secretary of De-  
30 fense for automatic restoration of forfeited annual leave  
31 under section 6304(d)(3) of title 5, United States Code,  
32 during the year of transfer; and

33 (2) may be deemed by the Secretary of Defense to  
34 have used all forfeited annual leave properly restored under  
35 section 6304(d)(3) of title 5, United States Code, within  
36 the appropriate time limits, only if such restored annual  
37 leave was used by the employee or paid to the employee in



11-25

1 the form of a lump sum payment under section 5551(a) of  
2 title 5, United States Code, by the last day of the 2001  
3 leave year.

4 (b) PAYMENT OF RESTORED ANNUAL LEAVE.—(1) On or  
5 after September 23, 1996, all employees transferring from a  
6 closing or realigning Department of Defense installation or ac-  
7 tivity as defined under section 6304(d)(3)(A) of title 5, United  
8 States Code, to another Department of Defense installation or  
9 activity who, upon transfer, were entitled to payment of a lump  
10 sum payment under section 5551(c) of title 5, United States  
11 Code, for forfeited annual leave properly restored under section  
12 6304(d)(3) of title 5, United States Code—

13 (A) may be paid only for any such restored annual  
14 leave currently remaining to their credit at the hourly rate  
15 payable on the date of transfer with appropriate back pay  
16 interest; and

17 (B) shall be deemed paid for all such restored annual  
18 leave to which that employee was entitled to payment upon  
19 transfer, but subsequently used or was otherwise paid for  
20 upon separation.

21 (2) This subsection shall take effect on the date of the en-  
22 actment of this Act.

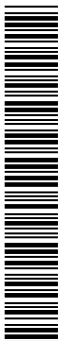
23 **SEC. 1115. AUTHORITY TO EMPLOY CIVILIAN FACULTY**  
24 **MEMBERS AT THE WESTERN HEMISPHERE**  
25 **INSTITUTE FOR SECURITY COOPERATION.**

26 Section 1595(e) of title 10, United States Code, is amend-  
27 ed by adding at the end the following new paragraph:

28 “(6) The Western Hemisphere Institute for Security  
29 Cooperation.”.

30 **SEC. 1116. EXTENSION OF AUTHORITY FOR EXPERI-**  
31 **MENTAL PERSONNEL PROGRAM FOR SCI-**  
32 **ENTIFIC AND TECHNICAL PERSONNEL.**

33 (a) EXTENSION OF PROGRAM.—Subsection (e)(1) of sec-  
34 tion 1101 of the Strom Thurmond National Defense Authoriza-  
35 tion Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat.  
36 2139; 5 U.S.C. 3104 note) is amended by striking “October  
37 16, 2005” and inserting “September 30, 2008”.



(b) COMMENSURATE EXTENSION OF REQUIREMENT FOR ANNUAL REPORT.—Subsection (g) of such section is amended by striking “2006” and inserting “2009”.

## **Subtitle C—Other Federal Government Civilian Personnel Matters**

### **SEC. 1121. MODIFICATION OF THE OVERTIME PAY CAP.**

Section 5542(a)(2) of title 5, United States Code, is amended—

(1) by inserting “the greater of” before “one and one-half”; and

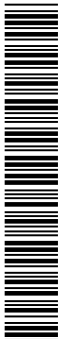
(2) by inserting “or the hourly rate of basic pay of the employee” after “law)” the second place it appears.

### **SEC. 1122. COMMON OCCUPATIONAL AND HEALTH STANDARDS FOR DIFFERENTIAL PAYMENTS AS A CONSEQUENCE OF EXPOSURE TO ASBESTOS.**

(a) PREVAILING RATE SYSTEMS.—Section 5343(c)(4) of title 5, United States Code, is amended by inserting before the semicolon at the end the following: “, and for any hardship or hazard related to asbestos, such differentials shall be determined by applying occupational safety and health standards consistent with the permissible exposure limit promulgated by the Secretary of Labor under the Occupational Safety and Health Act of 1970”.

(b) GENERAL SCHEDULE PAY RATES.—Section 5545(d) of such title is amended by inserting before the period at the end of the first sentence the following: “, and for any hardship or hazard related to asbestos, such differentials shall be determined by applying occupational safety and health standards consistent with the permissible exposure limit promulgated by the Secretary of Labor under the Occupational Safety and Health Act of 1970”.

(c) APPLICABILITY.—Subject to any vested constitutional property rights, any administrative or judicial determination after the date of enactment of this Act concerning backpay for a differential established under sections 5343(c)(4) or 5545(d) of such title shall be based on occupational safety and health



11-27

1 standards described in the amendments made by subsections  
2 (a) and (b).

3 **SEC. 1123. INCREASE IN ANNUAL STUDENT LOAN RE-**  
4 **PAYMENT AUTHORITY.**

5 (a) INCREASE.—Section 5379(b)(2)(A) of title 5, United  
6 States Code, is amended by striking “\$6,000” and inserting  
7 “\$10,000”.

8 (b) EFFECTIVE DATE.—The amendment made by sub-  
9 section (a) shall take effect on January 1, 2004.

10 **SEC. 1124. AUTHORIZATION FOR CABINET SECRE-**  
11 **TARIES, SECRETARIES OF MILITARY DE-**  
12 **PARTMENTS, AND HEADS OF EXECUTIVE**  
13 **AGENCIES TO BE PAID ON A BIWEEKLY**  
14 **BASIS.**

15 (a) AUTHORIZATION.—Section 5504 of title 5, United  
16 States Code, is amended—

17 (1) by redesignating subsection (c) as subsection (d);

18 (2) by striking the last sentence of both subsection (a)  
19 and subsection (b); and

20 (3) by inserting after subsection (b) the following:

21 “(c) For the purposes of this section:

22 “(1) The term ‘employee’ means—

23 “(A) an employee in or under an Executive agen-  
24 cy;

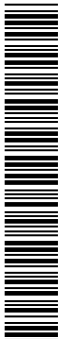
25 “(B) an employee in or under the Office of the Ar-  
26 chitect of the Capitol, the Botanic Garden, and the Li-  
27 brary of Congress, for whom a basic administrative  
28 workweek is established under section 6101(a)(5) of  
29 this title; and

30 “(C) an individual employed by the government of  
31 the District of Columbia.

32 “(2) The term ‘employee’ does not include—

33 “(A) an employee on the Isthmus of Panama in  
34 the service of the Panama Canal Commission; or

35 “(B) an employee or individual excluded from the  
36 definition of employee in section 5541(2) of this title  
37 other than an employee or individual excluded by



## 11-28

1 clauses (ii), (iii), and (xiv) through (xvii) of such sec-  
2 tion.

3 “(3) Notwithstanding paragraph (2), an individual  
4 who otherwise would be excluded from the definition of em-  
5 ployee shall be deemed to be an employee for purposes of  
6 this section if the individual’s employing agency so elects,  
7 under guidelines in regulations promulgated by the Office  
8 of Personnel Management under subsection (d)(2).”.

9 (b) GUIDELINES.—Subsection (d) of section 5504 of such  
10 title, as redesignated by subsection (a), is amended—

11 (1) by inserting “(1)” after “(d)”; and

12 (2) by adding at the end the following new paragraph:

13 “(2) The Office of Personnel Management shall provide  
14 guidelines by regulation for exemptions to be made by the  
15 heads of agencies under subsection (c)(3). Such guidelines shall  
16 provide for such exemptions only under exceptional cir-  
17 cumstances.”.

18 **SEC. 1125. SENIOR EXECUTIVE SERVICE AND PERFORM-**  
19 **ANCE.**

20 (a) SENIOR EXECUTIVE PAY.—Chapter 53 of title 5,  
21 United States Code, is amended—

22 (1) in section 5304—

23 (A) in subsection (g)(2)—

24 (i) in subparagraph (A) by striking “subpara-  
25 graphs (A)–(E)” and inserting “subparagraphs  
26 (A)–(D)”; and

27 (ii) in subparagraph (B) by striking “sub-  
28 section (h)(1)(F)” and inserting “subsection  
29 (h)(1)(D)”; and

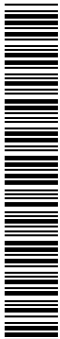
30 (B) in subsection (h)(1)—

31 (i) by striking subparagraphs (B) and (C);

32 (ii) by redesignating subparagraphs (D), (E),  
33 and (F) as subparagraphs (B), (C), and (D), re-  
34 spectively;

35 (iii) in clause (ii) by striking “or” at the end;

36 (iv) in clause (iii) by striking the period and  
37 inserting a semicolon; and



## 11-29

1 (v) by adding at the end the following new  
2 clauses:

3 “(iv) a Senior Executive Service position under section  
4 3132;

5 “(v) a position in the Federal Bureau of Investigation  
6 and Drug Enforcement Administration Senior Executive  
7 Service under section 3151; or

8 “(vi) a position in a system equivalent to the system  
9 in clause (iv), as determined by the President’s Pay Agent  
10 designated under subsection (d).”; and

11 (C) in subsection (h)(2)(B)—

12 (i) in clause (i)—

13 (I) by striking “subparagraphs (A)  
14 through (E)” and inserting “subparagraphs  
15 (A) through (C)”; and

16 (II) by striking “clause (i) or (ii)” and in-  
17 serting “clause (i), (ii), (iii), (iv), (v), or (vii)”;  
18 and

19 (ii) in clause (ii)—

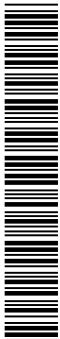
20 (I) by striking “paragraph (1)(F)” and in-  
21 serting “paragraph (1)(D)”; and

22 (II) by striking “clause (i) or (ii)” and in-  
23 serting “clause (i), (ii), (iii), (iv), (v), or (vi)”;

24 (2) by amending section 5382 to read as follows:

25 **“§ 5382. Establishment of rates of pay for the Sen-  
26 ior Executive Service**

27 “(a) Subject to regulations prescribed by the Office of Per-  
28 sonnel Management, there shall be established a range of rates  
29 of basic pay for the Senior Executive Service, and each senior  
30 executive shall be paid at one of the rates within the range,  
31 based on individual performance, contribution to the agency’s  
32 performance, or both, as determined under a rigorous perform-  
33 ance management system. The lowest rate of the range shall  
34 not be less than the minimum rate of basic pay payable under  
35 section 5376, and the highest rate, for any position under this  
36 system or an equivalent system as determined by the Presi-  
37 dent’s Pay Agent designated under section 5304(d), shall not



## 11–30

1 exceed the rate for level III of the Executive Schedule. The  
2 payment of the rates shall not be subject to the pay limitation  
3 of section 5306(e) or 5373.

4 “(b) Notwithstanding the provisions of subsection (a), the  
5 applicable maximum shall be level II of the Executive Schedule  
6 for any agency that is certified under section 5307 as having  
7 a performance appraisal system which, as designed and applied,  
8 makes meaningful distinctions based on relative performance.

9 “(c) No employee may suffer a reduction in pay by reason  
10 of transfer from an agency with an applicable maximum rate  
11 of pay prescribed under subsection (b) to an agency with an  
12 applicable maximum rate of pay prescribed under subsection  
13 (a).”; and

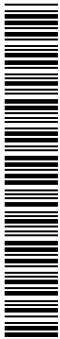
14 (3) in section 5383—

15 (A) in subsection (a) by striking “which of the  
16 rates established under section 5382 of this title” and  
17 inserting “which of the rates within a range established  
18 under section 5382”; and

19 (B) in subsection (c) by striking “for any pay ad-  
20 justment under section 5382 of this title” and inserting  
21 “as provided in regulations prescribed by the Office  
22 under section 5385”.

23 (b) POST-EMPLOYMENT RESTRICTIONS.—(1) Clause (ii) of  
24 section 207(c)(2)(A) of title 18, United States Code is amended  
25 to read as follows:

26 “(ii) employed in a position which is not referred  
27 to in clause (i) and for which that person is paid at a  
28 rate of basic pay which is equal to or greater than 86.5  
29 percent of the rate of basic pay for level II of the Exec-  
30 utive Schedule, or, for a period of 2 years following the  
31 enactment of the National Defense Authorization Act  
32 for Fiscal Year 2004, a person who, on the day prior  
33 to the enactment of that Act, was employed in a posi-  
34 tion which is not referred to in clause (i) and for which  
35 the rate of basic pay, exclusive of any locality-based  
36 pay adjustment under section 5304 or section 5304a of  
37 title 5, was equal to or greater than the rate of basic





11–31

1 pay payable for level 5 of the Senior Executive Service  
2 on the day prior to the enactment of that Act,”.

3 (2) Subchapter I of chapter 73 of title 5, United States  
4 Code, is amended by inserting at the end the following new sec-  
5 tion:

6 **“§ 7302. Post-employment notification**

7 “(a) Not later than the effective date of the amendments  
8 made by section 1106 of the National Defense Authorization  
9 Act for Fiscal Year 2004, or 180 days after the date of enact-  
10 ment of that Act, whichever is later, the Office of Personnel  
11 Management shall, in consultation with the Attorney General  
12 and the Office of Government Ethics, promulgate regulations  
13 requiring that each Executive branch agency notify any em-  
14 ployee of that agency who is subject to the provisions of section  
15 207(c)(1) of title 18, as a result of the amendment to section  
16 207(c)(2)(A)(ii) of that title by that Act.

17 “(b) The regulations shall require that notice be given be-  
18 fore, or as part of, the action that affects the employee’s cov-  
19 erage under section 207(c)(1) of title 18, by virtue of the provi-  
20 sions of section 207(c)(2)(A)(ii) of that title, and again when  
21 employment or service in the covered position is terminated.”.

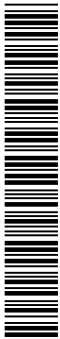
22 (3) The table of sections for chapter 73 of title 5, United  
23 States Code, is amended by adding after the item relating to  
24 section 7301 the following:

“7302. Post-employment notification.”.

25 (c) EFFECTIVE DATE AND APPLICABILITY.—(1) The  
26 amendments made by this section shall take effect on the first  
27 day of the first pay period beginning on or after the first Janu-  
28 ary 1 following the date of enactment of this section.

29 (2) The amendments made by subsection (a) may not re-  
30 sult in a reduction in the rate of basic pay for any senior exec-  
31 utive during the first year after the effective date of those  
32 amendments.

33 (3) For the purposes of paragraph (2), the rate of basic  
34 pay for a senior executive shall be deemed to be the rate of  
35 basic pay set for the senior executive under section 5383 of



1 title 5, United States Code, plus applicable locality pay paid to  
2 that senior executive, as of the date of enactment of this Act.

3 (4) Until otherwise provided by law, or except as otherwise  
4 provided by this section, any reference in a provision of law to  
5 a rate of basic pay that is above the minimum payable and  
6 below the maximum payable to a member of the Senior Execu-  
7 tive Service shall be considered a reference to the rate of basic  
8 pay payable for level IV of the Executive Schedule.

9 **SEC. 1126. DESIGN ELEMENTS OF PAY-FOR-PERFORM-**  
10 **ANCE SYSTEMS IN DEMONSTRATION**  
11 **PROJECTS.**

12 A pay-for-performance system may not be initiated under  
13 chapter 47 of title 5, United States Code, after the date of en-  
14 actment of this Act, unless it incorporates the following ele-  
15 ments:

16 (1) Adherence to merit principles set forth in section  
17 2301 of such title.

18 (2) A fair, credible, and transparent employee per-  
19 formance appraisal system.

20 (3) A link between elements of the pay-for-perform-  
21 ance system, the employee performance appraisal system,  
22 and the agency's strategic plan.

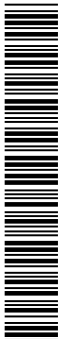
23 (4) A means for ensuring employee involvement in the  
24 design and implementation of the system.

25 (5) Adequate training and retraining for supervisors,  
26 managers, and employees in the implementation and oper-  
27 ation of the pay-for-performance system.

28 (6) A process for ensuring ongoing performance feed-  
29 back and dialogue between supervisors, managers, and em-  
30 ployees throughout the appraisal period, and setting time-  
31 tables for review.

32 (7) Effective safeguards to ensure that the manage-  
33 ment of the system is fair and equitable and based on em-  
34 ployee performance.

35 (8) A means for ensuring that adequate agency re-  
36 sources are allocated for the design, implementation, and  
37 administration of the pay-for-performance system.



11-33

1   **SEC. 1127. FEDERAL FLEXIBLE BENEFITS PLAN ADMIN-**  
2                   **ISTRATIVE COSTS.**

3           (a) IN GENERAL.—Notwithstanding any other provision of  
4   law, an agency or other employing entity of the Government  
5   which provides or plans to provide a flexible spending account  
6   option for its employees shall not impose any fee with respect  
7   to any of its employees in order to defray the administrative  
8   costs associated therewith.

9           (b) OFFSET OF ADMINISTRATIVE COSTS.—Each such  
10   agency or employing entity that offers a flexible spending ac-  
11   count option under a program established or administered by  
12   the Office of Personnel Management shall periodically forward  
13   to such Office, or entity designated by such Office, the amount  
14   necessary to offset the administrative costs of such program  
15   which are attributable to such agency.

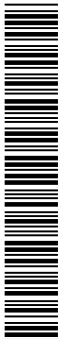
16          (c) REPORTS.—(1) The Office shall submit a report to the  
17   Committee on Government Reform of the House of Representa-  
18   tives and the Committee on Governmental Affairs of the Senate  
19   no later than March 31, 2004, specifying the administrative  
20   costs associated with the Governmentwide program (referred to  
21   in subsection (b)) for fiscal year 2003, as well as the projected  
22   administrative costs of such program for each of the 5 fiscal  
23   years thereafter.

24          (2) At the end of each of the first 3 calendar years in  
25   which an agency or other employing entity offers a flexible  
26   spending account option under this section, such agency or en-  
27   tity shall submit a report to the Office of Management and  
28   Budget showing the amount of its employment tax savings in  
29   such year which are attributable to such option, net of adminis-  
30   trative fees paid under subsection (b).

31   **SEC. 1128. EMPLOYEE SURVEYS.**

32          (a) IN GENERAL.—Each agency shall conduct an annual  
33   survey of its employees (including survey questions unique to  
34   the agency and questions prescribed under subsection (b)) to  
35   assess—

36               (1) leadership and management practices that con-  
37               tribute to agency performance; and



11–34

- 1 (2) employee satisfaction with—  
2 (A) leadership policies and practices;  
3 (B) work environment;  
4 (C) rewards and recognition for professional ac-  
5 complishment and personal contributions to achieving  
6 organizational mission;  
7 (D) opportunity for professional development and  
8 growth; and  
9 (E) opportunity to contribute to achieving organi-  
10 zational mission.

11 (b) REGULATIONS.—The Office of Personnel Management  
12 shall issue regulations prescribing survey questions that should  
13 appear on all agency surveys under subsection (a) in order to  
14 allow a comparison across agencies.

15 (c) AVAILABILITY OF RESULTS.—The results of the agen-  
16 cy surveys under subsection (a) shall be made available to the  
17 public and posted on the website of the agency involved, unless  
18 the head of such agency determines that doing so would jeop-  
19 ardize or negatively impact national security.

20 (d) AGENCY DEFINED.—For purposes of this section, the  
21 term “agency” means an Executive agency (as defined by sec-  
22 tion 105 of title 5, United States Code).

23 **SEC. 1129. HUMAN CAPITAL PERFORMANCE FUND.**

24 (a) IN GENERAL.—Subpart D of part III of title 5, United  
25 States Code, is amended by inserting after chapter 53 the fol-  
26 lowing:

27 **“CHAPTER 54—HUMAN CAPITAL**  
28 **PERFORMANCE FUND**

“Sec.

“5401. Purpose.

“5402. Definitions.

“5403. Human Capital Performance Fund.

“5404. Human capital performance payments.

“5405. Regulations.

“5406. Agency plan.

“5407. Nature of payment.

“5408. Appropriations.



1    **“§ 5401. Purpose**

2           “The purpose of this chapter is to promote, through the  
3   creation of a Human Capital Performance Fund, greater per-  
4   formance in the Federal Government. Monies from the Fund  
5   will be used to reward agencies’ highest performing and most  
6   valuable employees. This Fund will offer Federal managers a  
7   new tool to recognize employee performance that is critical to  
8   the achievement of agency missions.

9    **“§ 5402. Definitions**

10           “For the purpose of this chapter—

11           “(1) ‘agency’ means an Executive agency under sec-  
12   tion 105, but does not include the General Accounting Of-  
13   fice;

14           “(2) ‘employee’ includes—

15           “(A) an individual paid under a statutory pay sys-  
16   tem defined in section 5302(1);

17           “(B) a prevailing rate employee, as defined in sec-  
18   tion 5342(a)(2); and

19           “(C) a category of employees included by the Of-  
20   fice of Personnel Management following the review of  
21   an agency plan under section 5403(b)(1);

22   but does not include—

23           “(i) an individual paid at an annual rate of basic  
24   pay for a level of the Executive Schedule, under sub-  
25   chapter II of chapter 53, or at a rate provided for one  
26   of those levels under another provision of law;

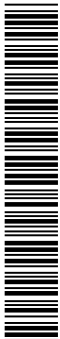
27           “(ii) a member of the Senior Executive Service  
28   paid under subchapter VIII of chapter 53, or an equiv-  
29   alent system;

30           “(iii) an administrative law judge paid under sec-  
31   tion 5372;

32           “(iv) a contract appeals board member paid under  
33   section 5372a;

34           “(v) an administrative appeals judge paid under  
35   section 5372b; and

36           “(vi) an individual in a position which is excepted  
37   from the competitive service because of its confidential,



1 policy-determining, policy-making, or policy-advocating  
2 character; and

3 “(3) ‘Office’ means the Office of Personnel Manage-  
4 ment.

5 **“§ 5403. Human Capital Performance Fund**

6 “(a) There is hereby established the Human Capital Per-  
7 formance Fund, to be administered by the Office for the pur-  
8 pose of this chapter.

9 “(b)(1)(A) An agency shall submit a plan as described in  
10 section 5406 to be eligible for consideration by the Office for  
11 an allocation under this section. An allocation shall be made  
12 only upon approval by the Office of an agency’s plan.

13 “(B)(i) After the reduction for training required under  
14 section 5408, ninety percent of the remaining amount appro-  
15 priated to the Fund may be allocated by the Office to the agen-  
16 cies. Of the amount to be allocated, an agency’s pro rata dis-  
17 tribution may not exceed its pro rata share of Executive branch  
18 payroll.

19 “(ii) If the Office does not allocate an agency’s full pro  
20 rata share, the undistributed amount remaining from that  
21 share will become available for distribution to other agencies,  
22 as provided in subparagraph (C).

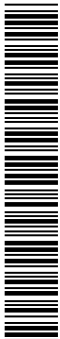
23 “(C)(i) After the reduction for training under section  
24 5408, ten percent of the remaining amount appropriated to the  
25 Fund, as well as the amount of the pro rata share not distrib-  
26 uted because of an agency’s failure to submit a satisfactory  
27 plan, shall be allocated among agencies with exceptionally high-  
28 quality plans.

29 “(ii) An agency with an exceptionally high-quality plan is  
30 eligible to receive an additional distribution in addition to its  
31 full pro rata distribution.

32 “(2) Each agency is required to provide to the Office such  
33 payroll information as the Office specifies necessary to deter-  
34 mine the Executive branch payroll.

35 **“§ 5404. Human capital performance payments**

36 “(a)(1) Notwithstanding any other provision of law, the  
37 Office may authorize an agency to provide human capital per-



11-37

1 formance payments to individual employees based on excep-  
2 tional performance contributing to the achievement of the agen-  
3 cy mission.

4 “(2) The number of employees in an agency receiving pay-  
5 ments from the Fund, in any year, shall not be more than the  
6 number equal to 15 percent of the agency’s average total civil-  
7 ian full- and part-time permanent employment for the previous  
8 fiscal year.

9 “(b)(1) A human capital performance payment provided to  
10 an individual employee from the Fund, in any year, shall not  
11 exceed 10 percent of the employee’s rate of basic pay.

12 “(2) The aggregate of an employee’s rate of basic pay, ad-  
13 justed by any locality-based comparability payments, and  
14 human capital performance pay, as defined by regulation, may  
15 not exceed the rate of basic pay for Executive Level IV in any  
16 year.

17 “(3) Any human capital performance payment provided to  
18 an employee from the Fund is in addition to any annual pay  
19 adjustment (under section 5303 or any similar provision of  
20 law) and any locality-based comparability payment that may  
21 apply.

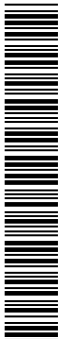
22 “(c) No monies from the Human Capital Performance  
23 Fund may be used to pay for a new position, for other perform-  
24 ance-related payments, or for recruitment or retention incen-  
25 tives paid under sections 5753 and 5754.

26 “(d)(1) An agency may finance initial human capital per-  
27 formance payments using monies from the Human Capital Per-  
28 formance Fund, as available.

29 “(2) In subsequent years, continuation of previously  
30 awarded human capital performance payments shall be fi-  
31 nanced from other agency funds available for salaries and ex-  
32 penses.

### 33 **“§ 5405. Regulations**

34 “The Office shall issue such regulations as it determines  
35 to be necessary for the administration of this chapter, including  
36 the administration of the Fund. The Office’s regulations shall  
37 include criteria governing—

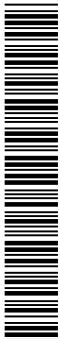


11-38

- 1 “(1) an agency plan under section 5406;
- 2 “(2) the allocation of monies from the Fund to agen-
- 3 cies;
- 4 “(3) the nature, extent, duration, and adjustment of,
- 5 and approval processes for, payments to individual employ-
- 6 ees under this chapter;
- 7 “(4) the relationship to this chapter of agency per-
- 8 formance management systems;
- 9 “(5) training of supervisors, managers, and other indi-
- 10 viduals involved in the process of making performance dis-
- 11 tinctions; and
- 12 “(6) the circumstances under which funds may be allo-
- 13 cated by the Office to an agency in amounts below or in
- 14 excess of the agency’s pro rata share.

15 **“§ 5406. Agency plan**

- 16 “(a) To be eligible for consideration by the Office for an
- 17 allocation under this section, an agency shall—
- 18 “(1) develop a plan that incorporates the following ele-
- 19 ments:
- 20 “(A) adherence to merit principles set forth in sec-
- 21 tion 2301;
- 22 “(B) a fair, credible, and transparent employee
- 23 performance appraisal system;
- 24 “(C) a link between the pay-for-performance sys-
- 25 tem, the employee performance appraisal system, and
- 26 the agency’s strategic plan;
- 27 “(D) a means for ensuring employee involvement
- 28 in the design and implementation of the system;
- 29 “(E) adequate training and retraining for super-
- 30 visors, managers, and employees in the implementation
- 31 and operation of the pay-for-performance system;
- 32 “(F) a process for ensuring ongoing performance
- 33 feedback and dialogue between supervisors, managers,
- 34 and employees throughout the appraisal period, and
- 35 setting timetables for review;





## 11–39

1 “(G) effective safeguards to ensure that the man-  
2 agement of the system is fair and equitable and based  
3 on employee performance; and

4 “(H) a means for ensuring that adequate agency  
5 resources are allocated for the design, implementation,  
6 and administration of the pay-for-performance system;

7 “(2) upon approval, receive an allocation of funding  
8 from the Office;

9 “(3) make payments to individual employees in accord-  
10 ance with the agency’s approved plan; and

11 “(4) provide such information to the Office regarding  
12 payments made and use of funds received under this sec-  
13 tion as the Office may specify.

14 “(b) The Office, in consultation with the Chief Human  
15 Capital Officers Council, shall review and approve an agency’s  
16 plan before the agency is eligible to receive an allocation of  
17 funding from the Office.

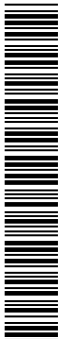
18 “(c) The Chief Human Capital Officers Council shall in-  
19 clude in its annual report to Congress under section 1303(d)  
20 of the Homeland Security Act of 2002 an evaluation of the for-  
21 mulation and implementation of agency performance manage-  
22 ment systems.

23 **“§ 5407. Nature of payment**

24 “Any payment to an employee under this section shall be  
25 part of the employee’s basic pay for the purposes of subchapter  
26 III of chapter 83, and chapters 84 and 87, and for such other  
27 purposes (other than chapter 75) as the Office shall determine  
28 by regulation.

29 **“§ 5408. Appropriations**

30 “There is authorized to be appropriated \$500,000,000 for  
31 fiscal year 2004, and, for each subsequent fiscal year, such  
32 sums as may be necessary to carry out the provisions of this  
33 chapter. In the first year of implementation, up to 10 percent  
34 of the amount appropriated to the Fund shall be available to  
35 participating agencies to train supervisors, managers, and other  
36 individuals involved in the appraisal process on using perform-

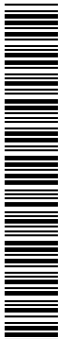


## 11–40

1     ance management systems to make meaningful distinctions in  
2     employee performance and on the use of the Fund.”.

3           (b) CLERICAL AMENDMENT.—The table of chapters for  
4     part III of title 5, United States Code, is amended by inserting  
5     after the item relating to chapter 53 the following:

“54.   Human Capital Performance Fund ..... 5401”.



12–1

1 **TITLE XII—MATTERS RELATING TO**  
2 **OTHER NATIONS**

**Subtitle A—Matters Relating to Iraq**

Sec. 1201. Medical assistance to Iraqi children injured during Operation Iraqi Freedom.

Sec. 1202. Report on the conduct of Operation Iraqi Freedom.

Sec. 1203. Report on Department of Defense security and reconstruction activities in Iraq.

Sec. 1204. Report on acquisition by Iraq of advanced weapons.

Sec. 1205. Sense of Congress on use of small businesses, minority-owned businesses, and women-owned businesses in efforts to rebuild Iraq.

**Subtitle B—Matters Relating to Export Protections**

Sec. 1211. Review of export protections for military superiority resources.

Sec. 1212. Report on Department of Defense costs relating to national security controls on satellite exports.

**Subtitle C—Administrative Requirements and Authorities**

Sec. 1221. Authority to use funds for payment of costs of attendance of foreign visitors under Regional Defense Counterterrorism Fellowship Program.

Sec. 1222. Recognition of superior noncombat achievements or performance by members of friendly foreign forces and other foreign nationals.

Sec. 1223. Expansion of authority to waive charges for costs of attendance at George C. Marshall European Center for Security Studies.

Sec. 1224. Authority for check cashing and currency exchange services to be provided to foreign military members participating in certain activities with United States forces.

Sec. 1225. Depot maintenance and repair work on certain types of trainer aircraft to be transferred to foreign countries as excess aircraft.

**Subtitle D—Other Reports and Sense of Congress  
Statements**

Sec. 1231. Annual report on the NATO Prague Capabilities Commitment and the NATO Response Force.

Sec. 1232. Report on actions that could be taken regarding countries that initiate certain legal actions against United States officials or members of the Armed Forces.

Sec. 1233. Sense of Congress on redeployment of United States forces in Europe.

Sec. 1234. Sense of Congress concerning Navy port calls in Israel.

3 **Subtitle A—Matters Relating to Iraq**  
4 **SEC. 1201. MEDICAL ASSISTANCE TO IRAQI CHILDREN**  
5 **INJURED DURING OPERATION IRAQI FREE-**  
6 **DOM.**

7 (a) ASSISTANCE.—Subject to subsections (c) and (d), the  
8 Secretary of Defense shall, to the maximum extent practicable,  
9 provide all necessary health care and related support to provide  
10 needed medical assistance to Iraqi children who, as determined



## 12-2

1 by the Secretary of Defense, were injured during and as a re-  
2 sult of Operation Iraqi Freedom. Such assistance shall be pro-  
3 vided in an expeditious manner.

4 (b) RELATED SUPPORT.—Related support under sub-  
5 section (a) includes transportation on aeromedical evacuation  
6 aircraft of the Department of Defense on a space-available  
7 basis.

8 (c) LIMITATIONS RELATING TO MEDICAL CARE.—Assist-  
9 ance may be provided to a child under subsection (a)—

10 (1) only if adequate treatment from other sources in  
11 Iraq or neighboring countries is not available; and

12 (2) only after completion of an evaluation by a physi-  
13 cian or other appropriate medical personnel of the United  
14 States Armed Forces.

15 (d) LIMITATION RELATING TO UNITED STATES MILITARY  
16 OPERATIONS.—Assistance may be provided to a child under  
17 subsection (a) only if the provision of such assistance would not  
18 adversely affect military operations of the United States.

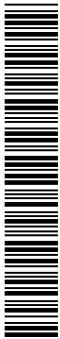
19 **SEC. 1202. REPORT ON THE CONDUCT OF OPERATION**  
20 **IRAQI FREEDOM.**

21 (a) REPORT REQUIRED.—(1) Not later than March 31,  
22 2004, the Secretary of Defense shall submit to the congres-  
23 sional defense committees and the Permanent Select Committee  
24 on Intelligence of the House of Representatives and the Select  
25 Committee on Intelligence of the Senate a report on the prepa-  
26 ration for and conduct of military operations under Operation  
27 Iraqi Freedom from March 19, 2003, to May 1, 2003.

28 (2) The report shall be prepared in consultation with the  
29 Chairman of the Joint Chiefs of Staff, the commander of the  
30 United States Central Command, and such other officers and  
31 officials as the Secretary considers appropriate.

32 (b) CONTENT.—The report shall include a discussion, with  
33 a particular emphasis on accomplishments and shortcomings  
34 and on near-term and long-term corrective actions to address  
35 those shortcomings, of the following:

36 (1) The military objectives of the international coali-  
37 tion conducting Operation Iraqi Freedom, the military



## 12-3

1 strategy selected to achieve the objectives, and an assess-  
2 ment of the execution of the military strategy.

3 (2) The deployment process, including the adaptability  
4 of the process to unforeseen contingencies and changing re-  
5 quirements.

6 (3) The effectiveness of the reserve component forces  
7 used in Operation Iraqi Freedom, including the reserve  
8 component mobilization process, the timeliness of mobiliza-  
9 tion notification, training, operational effectiveness in the-  
10 ater, and subsequent demobilization.

11 (4) The use and performance of major items of United  
12 States military equipment, weapon systems, and munitions  
13 (including items classified under special access procedures  
14 and items drawn from prepositioned stocks) and any ex-  
15 pected effects of the experience with the use and perform-  
16 ance of those items on the doctrinal and tactical employ-  
17 ment of such items and on plans for continuing the acquisi-  
18 tion of such items.

19 (5) The effectiveness of joint air operations, including  
20 the doctrine for the employment of close air support in the  
21 varied environments of Operation Iraqi Freedom, and the  
22 effectiveness of attack helicopter operations.

23 (6) The use of special operations forces, including  
24 operational and intelligence uses classified under special ac-  
25 cess procedures.

26 (7) The scope of logistics support, including support  
27 from other nations.

28 (8) The incidence of accidental fratricide, together  
29 with a discussion of the effectiveness of the tracking of  
30 friendly forces and of the combat identification systems in  
31 mitigating friendly fire incidents.

32 (9) The adequacy of spectrum and bandwidth to trans-  
33 mit all necessary information to operational forces and as-  
34 sets, including unmanned aerial vehicles, ground vehicles,  
35 and individual soldiers.

36 (10) The effectiveness of information operations, in-  
37 cluding the effectiveness of Commando Solo and other psy-



## 12-4

1       chological operations assets, in achieving established objec-  
2       tives, together with a description of technological and other  
3       restrictions on the use of psychological operations capabili-  
4       ties.

5           (11) The adequacy of United States and coalition in-  
6       telligence and counterintelligence systems and personnel,  
7       including contributions regarding bomb damage assess-  
8       ments and particularly including United States tactical in-  
9       telligence and related activities (TIARA) programs and the  
10      Joint Military Intelligence Program (JMIP), as well as the  
11      adequacy of such support to facilitate searches for weapons  
12      of mass destruction.

13          (12) The rapid insertion and integration, if any, of de-  
14      velopmental but mission-essential equipment during all  
15      phases of the operation.

16          (13) The most critical lessons learned that could lead  
17      to long-term doctrinal, organizational, and technological  
18      changes (including new equipment, weapons systems, and  
19      munitions) and the probable effects that an implementation  
20      of those changes would have on current visions, goals, and  
21      plans for transformation of the Armed Forces and for joint  
22      and combined operations.

23          (14) The role of the law of armed conflict in the plan-  
24      ning and execution of military operations by United States  
25      forces and the other coalition forces and the effects on op-  
26      erations of Iraqi compliance or noncompliance with the law  
27      of armed conflict.

28          (15) The policies and procedures relating to the  
29      media, including the use of embedded media.

30          (16) The results of a study, carried out by the Sec-  
31      retary of Defense, regarding the availability of family sup-  
32      port services provided for the dependents of members of the  
33      National Guard and other reserve components of the  
34      Armed Forces who are called or ordered to active duty.

35          (17) The direct and indirect cost of military oper-  
36      ations, including an assessment of the total incremental ex-



penditures made by the Department of Defense as a result of Operation Iraqi Freedom.

(c) FORMS OF REPORT.—The report shall be submitted in unclassified form with a classified annex, if necessary.

**SEC. 1203. REPORT ON DEPARTMENT OF DEFENSE SECURITY AND RECONSTRUCTION ACTIVITIES IN IRAQ.**

(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the security and reconstruction activities of the Department of Defense in Iraq.

(b) REPORT ELEMENTS.—The report shall discuss the range of infrastructure reconstruction, civil administration, humanitarian assistance, interim governance, and political development activities undertaken in Iraq by officials of the Department and by those civilians reporting to the Secretary of Defense and the missions undertaken in Iraq by United States military forces. In particular, the report shall include a discussion of the following:

(1) The evolution of the organizational structure of the civilian groups reporting to the Secretary, including the Office of Reconstruction and Humanitarian Assistance and the Office of the Coalition Provisional Authority, on issues of Iraqi administration and reconstruction and the factors influencing that evolution.

(2) The relationship of the Department of Defense with other United States departments and agencies involved in administration and reconstruction planning and execution in Iraq.

(3) The relationship of Department of Defense entities, including the Office of Reconstruction and Humanitarian Assistance and the Office of the Coalition Provisional Authority, with intergovernmental and nongovernmental organizations contributing to the reconstruction and governance efforts.

(4) Progress made to the date of the report in—

(A) rebuilding Iraqi infrastructure;



## 12-6

1 (B) providing for the humanitarian needs of the  
2 Iraqi people;

3 (C) reconstituting the Iraqi governmental bureauc-  
4 racy and its provision of services;

5 (D) developing mechanisms of fully transitioning  
6 Iraq to representative self-government; and

7 (E) recruiting, training, and fielding Iraqi police  
8 and military forces.

9 (5) Progress made to the date of the report by De-  
10 partment of Defense civilians and military personnel in ac-  
11 counting for any Iraqi weapons of mass destruction and as-  
12 sociated weapons capabilities.

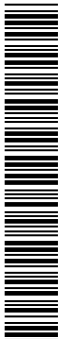
13 (6) Progress made to the date of the report by United  
14 States military personnel in providing security in Iraq and  
15 in transferring security functions to a reconstituted Iraqi  
16 police force and military.

17 (7) The Secretary's assessment of the scope of the on-  
18 going needed commitment of United States military forces  
19 and of the remaining tasks to be completed by Department  
20 of Defense civilian personnel in the governance and recon-  
21 struction areas, including an estimate of the total expendi-  
22 tures the Department of Defense expects to make for secu-  
23 rity and reconstruction activities in Iraq.

24 (8) The Secretary's assessment of the effect that the  
25 United States military presence in Iraq will have on re-  
26 placement and unit rotation policies, including the overall  
27 effect on global United States military deployments.

28 **SEC. 1204. REPORT ON ACQUISITION BY IRAQ OF AD-**  
29 **VANCED WEAPONS.**

30 (a) REPORT.—Not later than one year after the date of  
31 the enactment of this Act, the Secretary of Defense shall sub-  
32 mit to the Committees on Armed Services and Foreign Rela-  
33 tions of the Senate and the Committees on Armed Services and  
34 International Relations of the House of Representatives a re-  
35 port on the acquisition by Iraq of weapons of mass destruction  
36 and associated delivery systems and the acquisition by Iraq of  
37 advanced conventional weapons.





## 12-7

1 (b) MATTERS TO BE INCLUDED.—The report shall in-  
2 clude the following:

3 (1) A description of any materials, technology, and  
4 know-how that Iraq was able to obtain for its nuclear,  
5 chemical, biological, ballistic missile, and unmanned aerial  
6 vehicle programs, and advanced conventional weapons pro-  
7 grams, from 1979 through April 2003 from entities (in-  
8 cluding Iraqi citizens) outside of Iraq, as well as a descrip-  
9 tion of how Iraq obtained these capabilities from those enti-  
10 ties.

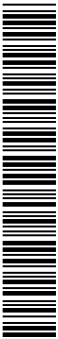
11 (2) An assessment of the degree to which United  
12 States, foreign, and multilateral export control regimes pre-  
13 vented acquisition by Iraq of weapons of mass destruction-  
14 related technology and materials and advanced conventional  
15 weapons and delivery systems since the commencement of  
16 international inspections in Iraq.

17 (3) An assessment of the effectiveness of United Na-  
18 tions sanctions at halting the flow of militarily-useful con-  
19 traband to Iraq from 1991 until the end of Operation Iraqi  
20 Freedom.

21 (4) An assessment of how Iraq was able to evade  
22 International Atomic Energy Agency and United Nations  
23 inspections regarding chemical, nuclear, biological, and mis-  
24 sile weapons and related capabilities.

25 (5) Identification and a catalog of the entities and  
26 countries that transferred militarily useful contraband and  
27 items described pursuant to paragraph (1) to Iraq between  
28 1991 and the end of major combat operations of Operation  
29 Iraqi Freedom on May 1, 2003, and the nature of that con-  
30 traband and of those items.

31 (c) FORM OF REPORT.—The report shall be submitted in  
32 unclassified form with a classified annex, if necessary.



**SEC. 1205. SENSE OF CONGRESS ON USE OF SMALL  
BUSINESSES, MINORITY-OWNED BUSI-  
NESSES, AND WOMEN-OWNED BUSINESSES  
IN EFFORTS TO REBUILD IRAQ.**

It is the sense of Congress that the Secretary of Defense should ensure that outreach procedures are in place to provide information to small businesses, minority-owned businesses, and women-owned businesses regarding Department of Defense requirements and contract opportunities for the rebuilding of Iraq.

**Subtitle B—Matters Relating to  
Export Protections**

**SEC. 1211. REVIEW OF EXPORT PROTECTIONS FOR MILI-  
TARY SUPERIORITY RESOURCES.**

(a) REVIEW REQUIRED.—The Secretary of Defense shall carry out a review—

(1) to identify goods or technology (as defined in section 16 of the Export Administration Act of 1979 (50 U.S.C. App. 2415)) that, if obtained by a potential adversary, could significantly undermine the military superiority or qualitative military advantage of the United States over potential adversaries or otherwise contribute to the acquisition of weapons of mass destruction and their delivery systems; and

(2) to determine whether any of the items or technologies identified under paragraph (1) are not currently controlled for export purposes on either the Commerce Control List or the United States Munitions List.

(b) ANNUAL REPORTS.—(1) Not later than March 1, 2004, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives an unclassified report, with a classified annex as necessary, on the results of the review under subsection (a).

(2) For each of the next two years after the submission of the report under paragraph (1), the Secretary shall submit to those committees an update on that report. Such updates



1 shall be submitted not later than March 1, 2005, and not later  
2 than March 1, 2006.

3 **SEC. 1212. REPORT ON DEPARTMENT OF DEFENSE**  
4 **COSTS RELATING TO NATIONAL SECURITY**  
5 **CONTROLS ON SATELLITE EXPORTS.**

6 (a) STUDY.—The Inspector General of the Department of  
7 Defense shall conduct a study of the costs incurred by the De-  
8 partment of Defense for each fiscal year from fiscal year 1999  
9 through fiscal year 2003 relating to national security controls  
10 on satellite exports. As part of such study, the Inspector Gen-  
11 eral shall identify for each such fiscal year the amounts ex-  
12 pended by the Department of Defense (1) for the monitoring  
13 of launches of satellites and related items in a foreign country  
14 pursuant to section 1514 of the Strom Thurmond National De-  
15 fense Authorization Act for Fiscal Year 1999 (Public Law  
16 105-261; 22 U.S.C. 2778 note), and (2) in connection with ap-  
17 plications for licenses for the export of satellites and related  
18 items (as that term is defined in section 1516 of that Act).

19 (b) REPORT.—Not later than April 1, 2004, the Inspector  
20 General shall submit to the Committees on Armed Services of  
21 the Senate and the House of Representatives a report on the  
22 study under subsection (a). The report shall include the fol-  
23 lowing:

24 (1) An identification and assessment of the costs re-  
25 ferred to in subsection (a), shown in the aggregate and sep-  
26 arately, by fiscal year and by clauses (1) and (2) of that  
27 subsection.

28 (2) A review of the costs referred to in clause (1) of  
29 subsection (a) for which the Department of Defense has  
30 been reimbursed by the person or entity receiving the sat-  
31 ellite launch monitoring services involved, including the ex-  
32 tent to which indirect costs were included in such reim-  
33 bursement.



12-10

1                   **Subtitle C—Administrative**  
2                   **Requirements and Authorities**

3       **SEC. 1221. AUTHORITY TO USE FUNDS FOR PAYMENT OF**  
4                   **COSTS OF ATTENDANCE OF FOREIGN VISI-**  
5                   **TORS UNDER REGIONAL DEFENSE**  
6                   **COUNTERTERRORISM FELLOWSHIP PRO-**  
7                   **GRAM.**

8           (a) AUTHORITY TO USE FUNDS.—(1) Subchapter I of  
9 chapter 134 of title 10, United States Code, is amended by  
10 adding at the end the following new section:

11       **“§ 2249c. Authority to use appropriated funds for**  
12                   **costs of attendance of foreign visitors**  
13                   **under Regional Defense Counterterrorism**  
14                   **Fellowship Program**

15           “(a) AUTHORITY TO USE FUNDS.—Under regulations  
16 prescribed by the Secretary of Defense, funds appropriated to  
17 the Department of Defense may be used to pay any costs asso-  
18 ciated with the attendance of foreign military officers, ministry  
19 of defense officials, or security officials at United States mili-  
20 tary educational institutions, regional centers, conferences,  
21 seminars, or other training programs conducted under the Re-  
22 gional Defense Counterterrorism Fellowship Program, includ-  
23 ing costs of transportation and travel and subsistence costs.

24           “(b) LIMITATION.—The total amount of funds used under  
25 the authority in subsection (a) in any fiscal year may not ex-  
26 ceed \$20,000,000.

27           “(c) ANNUAL REPORT.—Not later than December 1 of  
28 each year, the Secretary of Defense shall submit to Congress  
29 a report on the administration of this section during the fiscal  
30 year ended in such year. The report shall include the following  
31 matters:

32                   “(1) A complete accounting of the expenditure of ap-  
33 propriated funds for purposes authorized under subsection  
34 (a), including—

35                           “(A) the countries of the foreign officers and offi-  
36 cials for whom costs were paid; and



1 “(B) for each such country, the total amount of  
2 the costs paid.

3 “(2) The training courses attended by the foreign offi-  
4 cers and officials, including a specification of which, if any,  
5 courses were conducted in foreign countries.

6 “(3) An assessment of the effectiveness of the Re-  
7 gional Defense Counterterrorism Fellowship Program in in-  
8 creasing the cooperation of the governments of foreign  
9 countries with the United States in the global war on ter-  
10 rorism.

11 “(4) A discussion of any actions being taken to im-  
12 prove the program.”.

13 (2) The table of sections at the beginning of such sub-  
14 chapter is amended by adding at the end the following new  
15 item:

“2249e. Authority to use appropriated funds for costs of attendance of for-  
eign visitors under Regional Defense Counterterrorism Fellowship  
Program.”.

16 (b) NOTIFICATION OF CONGRESS.—Not later than Decem-  
17 ber 1, 2003, the Secretary of Defense shall—

18 (1) prescribe the final regulations for carrying out sec-  
19 tion 2249e of title 10, United States Code, as added by  
20 subsection (a); and

21 (2) notify the congressional defense committees of the  
22 prescription of such regulations.

23 **SEC. 1222. RECOGNITION OF SUPERIOR NONCOMBAT**  
24 **ACHIEVEMENTS OR PERFORMANCE BY MEM-**  
25 **BERS OF FRIENDLY FOREIGN FORCES AND**  
26 **OTHER FOREIGN NATIONALS.**

27 (a) AUTHORITY.—Chapter 53 of title 10, United States  
28 Code, is amended by inserting after section 1051a the following  
29 new section:

30 **“§ 1051b. Bilateral or regional cooperation pro-**  
31 **grams: awards and mementos to recognize**  
32 **superior noncombat achievements or per-**  
33 **formance**

34 “(a) GENERAL AUTHORITY.—The Secretary of Defense  
35 may present awards and mementos purchased with funds ap-



## 12–12

1     appropriated for operation and maintenance of the armed forces  
2     to recognize superior noncombat achievements or performance  
3     by members of friendly foreign forces and other foreign nation-  
4     als that significantly enhance or support the National Security  
5     Strategy of the United States.

6     “(b) ACTIVITIES THAT MAY BE RECOGNIZED.—Activities  
7     that may be recognized under subsection (a) include superior  
8     achievement or performance that—

9         “(1) plays a crucial role in shaping the international  
10        security environment in ways that protect and promote  
11        United States interests;

12        “(2) supports or enhances United States overseas  
13        presence and peacetime engagement activities, including de-  
14        fense cooperation initiatives, security assistance training  
15        and programs, and training and exercises with the armed  
16        forces;

17        “(3) helps to deter aggression and coercion, build coa-  
18        litions, and promote regional stability; or

19        “(4) serves as a role model for appropriate conduct by  
20        military forces in emerging democracies.

21     “(c) LIMITATION.—Expenditures for the purchase or pro-  
22     duction of mementos for award under this section may not ex-  
23     ceed the minimal value in effect under section 7342(a)(5) of  
24     title 5.”.

25     (b) CLERICAL AMENDMENT.—The table of sections at the  
26     beginning of such chapter is amended by inserting after the  
27     item relating to section 1051a the following new item:

“1051b. Bilateral or regional cooperation programs: awards and mementos  
to recognize superior noncombat achievements or performance.”.

28     **SEC. 1223. EXPANSION OF AUTHORITY TO WAIVE**  
29         **CHARGES FOR COSTS OF ATTENDANCE AT**  
30         **GEORGE C. MARSHALL EUROPEAN CENTER**  
31         **FOR SECURITY STUDIES.**

32     Section 1306(b)(1) of the National Defense Authorization  
33     Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat.  
34     2892) is amended by striking “of cooperation partner states of  
35     the North Atlantic Council or the Partnership for Peace” and



12-13

1 inserting “from states located in Europe or the territory of the  
2 former Soviet Union”.

3 **SEC. 1224. AUTHORITY FOR CHECK CASHING AND CUR-**  
4 **RENCY EXCHANGE SERVICES TO BE PRO-**  
5 **VIDED TO FOREIGN MILITARY MEMBERS**  
6 **PARTICIPATING IN CERTAIN ACTIVITIES**  
7 **WITH UNITED STATES FORCES.**

8 (a) AUTHORITY.—Subsection (b) of section 3342 of title  
9 31, United States Code, is amended by adding at the end the  
10 following new paragraph:

11 “(8) A member of the military forces of an allied or  
12 coalition nation who is participating in a combined oper-  
13 ation, combined exercise, or combined humanitarian or  
14 peacekeeping mission with the Armed Forces of the United  
15 States, but—

16 “(A) only if—

17 “(i) such disbursing official action for mem-  
18 bers of the military forces of that nation is ap-  
19 proved by the senior United States military com-  
20 mander assigned to that operation, exercise, or mis-  
21 sion; and

22 “(ii) that nation has guaranteed payment for  
23 any deficiency resulting from such disbursing offi-  
24 cial action; and

25 “(B) in the case of negotiable instruments, only  
26 for a negotiable instrument drawn on a financial insti-  
27 tution located in the United States or on a foreign  
28 branch of such an institution.”.

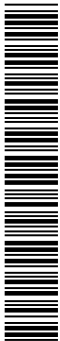
29 (b) TECHNICAL AMENDMENTS.—That subsection is fur-  
30 ther amended—

31 (1) by striking “only for—” in the matter preceding  
32 paragraph (1) and inserting “only for the following.”;

33 (2) by striking “an” at the beginning of paragraph (1)  
34 and inserting “An”;

35 (3) by striking “personnel” in paragraphs (2) and (6)  
36 and inserting “Personnel”;

37 (4) by striking “a” at the beginning of paragraphs  
38 (3), (4), (5), and (7) and inserting “A”;



12–14

- 1 (5) by striking the semicolon at the end of paragraphs  
2 (1) through (5) and inserting a period;  
3 (6) by striking “; or” at the end of paragraph (6) and  
4 inserting a period; and  
5 (7) by striking “1752(1))” in paragraph (7) and in-  
6 serting “1752(1)))”.

7 **SEC. 1225. DEPOT MAINTENANCE AND REPAIR WORK ON**  
8 **CERTAIN TYPES OF TRAINER AIRCRAFT TO**  
9 **BE TRANSFERRED TO FOREIGN COUNTRIES**  
10 **AS EXCESS AIRCRAFT.**

11 (a) DEPOT MAINTENANCE AND REPAIR WORK BEFORE  
12 TRANSFER.—Before an excess trainer aircraft of a type speci-  
13 fied in subsection (b) is transferred to a foreign country for the  
14 purpose of flight operations by that country, the Secretary of  
15 Defense shall make all reasonable efforts to ensure that the air-  
16 craft receives necessary depot maintenance and repair work  
17 and that such work is performed in the United States.

18 (b) COVERED TYPES OF AIRCRAFT.—Subsection (a) ap-  
19 plies to the following types of trainer aircraft:

- 20 (1) T–2 Buckeye aircraft.  
21 (2) T–37 Tweet aircraft.

22 (c) WORK TO BE PERFORMED AT NO COST TO DOD.—  
23 Any work referred to in subsection (a) shall be performed at  
24 no cost to the Department of Defense.

25 **Subtitle D—Other Reports and Sense**  
26 **of Congress Statements**

27 **SEC. 1231. ANNUAL REPORT ON THE NATO PRAGUE CA-**  
28 **PABILITIES COMMITMENT AND THE NATO**  
29 **RESPONSE FORCE.**

30 (a) FINDINGS.—Congress makes the following findings:

31 (1) At the meeting of the North Atlantic Council held  
32 in Prague in November 2002, the heads of states and gov-  
33 ernments of the North Atlantic Treaty Organization  
34 (NATO) launched a Prague Capabilities Commitment and  
35 decided to create a NATO Response Force.

36 (2) The Prague Capabilities Commitment is part of  
37 the continuing NATO effort to improve and develop new





## 12–15

1 military capabilities for modern warfare in a high-threat  
2 environment. As part of this commitment, individual NATO  
3 allies have made firm and specific political commitments to  
4 improve their capabilities in the areas of—

5 (A) chemical, biological, radiological, and nuclear  
6 defense;

7 (B) intelligence, surveillance, and target acqui-  
8 sition;

9 (C) air-to-ground surveillance;

10 (D) command, control, and communications;

11 (E) combat effectiveness, including precision guid-  
12 ed munitions and suppression of enemy air defenses;

13 (F) strategic air and sea lift;

14 (G) air-to-air refueling; and

15 (H) deployable combat support and combat service  
16 support units.

17 (3) The NATO Response Force is envisioned to be a  
18 technologically advanced, flexible, deployable, interoperable,  
19 and sustainable force that includes land, sea, and air ele-  
20 ments ready to move quickly to wherever needed, as deter-  
21 mined by the North Atlantic Council. The NATO Response  
22 Force is also intended to be a catalyst for focusing and pro-  
23 moting improvements in NATO's military capabilities. It is  
24 expected to have initial operational capability by October  
25 2004, and full operational capability by October 2006.

26 (b) ANNUAL REPORT.—(1) Not later than January 31 of  
27 each year through 2008, the Secretary of Defense shall submit  
28 to the congressional committees specified in paragraph (5) a re-  
29 port, to be prepared in consultation with the Secretary of State,  
30 on implementation of the Prague Capabilities Commitment and  
31 development of the NATO Response Force by the member na-  
32 tions of the North Atlantic Treaty Organization (NATO).

33 (2) The annual report under this subsection shall include  
34 the following matters:

35 (A) A description of the actions taken by NATO as a  
36 whole and by each member nation of NATO other than the  
37 United States to further the Prague Capabilities Commit-



## 12-16

1 ment, including any actions taken to improve capability  
2 shortfalls in the areas identified for improvement.

3 (B) A description of the actions taken by NATO as a  
4 whole and by each member nation of NATO, including the  
5 United States, to create the NATO Response Force.

6 (C) A discussion of the relationship between NATO's  
7 efforts to improve capabilities through the Prague Capabili-  
8 ties Commitment and those of the European Union to en-  
9 hance European capabilities through the European Capa-  
10 bilities Action Plan, including the extent to which they are  
11 mutually reinforcing.

12 (D) A discussion of NATO decisionmaking on the im-  
13 plementation of the Prague Capabilities Commitment and  
14 the development of the NATO Response Force, including—

15 (i) an assessment of whether the Prague Capabili-  
16 ties Commitment and the NATO Response Force are  
17 the sole jurisdiction of the Defense Planning Com-  
18 mittee, the North Atlantic Council, or the Military  
19 Committee;

20 (ii) a description of the circumstances which led to  
21 the defense, military, security, and nuclear decisions of  
22 NATO on matters such as the Prague Capabilities  
23 Commitment and the NATO Response Force being  
24 made in bodies other than the Defense Planning Com-  
25 mittee;

26 (iii) a description of the extent to which any mem-  
27 ber that does not participate in the integrated military  
28 structure of NATO contributes to each of the compo-  
29 nent committees of NATO, including any and all com-  
30 mittees relevant to the Prague Capabilities Commit-  
31 ment and the NATO Response Force;

32 (iv) a description of the extent to which any mem-  
33 ber that does not participate in the integrated military  
34 structure of NATO participates in deliberations and de-  
35 cisions of NATO on resource policy, contribution ceil-  
36 ings, infrastructure, force structure, modernization,  
37 threat assessments, training, exercises, deployments,



12-17

1 and other issues related to the Prague Capabilities  
2 Commitment or the NATO Response Force;

3 (v) a description and assessment of the impedi-  
4 ments, if any, that would preclude or limit NATO from  
5 conducting deliberations and making decisions on mat-  
6 ters such as the Prague Capabilities Commitment or  
7 the NATO Response Force solely in the Defense Plan-  
8 ning Committee; and

9 (vi) the recommendations of the Secretary of De-  
10 fense on streamlining defense, military, and security  
11 decisionmaking within NATO relating to the Prague  
12 Capabilities Commitment, the NATO Response Force,  
13 and other matters, including an assessment of the fea-  
14 sibility and advisability of the greater utilization of the  
15 Defense Planning Committee for such purposes.

16 (3) In the case of a report under this subsection after the  
17 first such report, the information submitted in such report  
18 under any of clauses (i) through (vi) of subparagraph (D) of  
19 paragraph (2) may consist solely of an update of any informa-  
20 tion previously submitted under that clause in a preceding re-  
21 port under this subsection.

22 (4) Each report under this subsection shall be submitted  
23 in unclassified form, but may also be submitted in classified  
24 form if necessary.

25 (5) The committees specified in this paragraph are—

26 (A) the Committee on Armed Services and the Com-  
27 mittee on Foreign Relations of the Senate; and

28 (B) the Committee on Armed Services and the Com-  
29 mittee on International Relations of the House of Rep-  
30 resentatives.

31 **SEC. 1232. REPORT ON ACTIONS THAT COULD BE TAKEN**  
32 **REGARDING COUNTRIES THAT INITIATE**  
33 **CERTAIN LEGAL ACTIONS AGAINST UNITED**  
34 **STATES OFFICIALS OR MEMBERS OF THE**  
35 **ARMED FORCES.**

36 (a) FINDING.—Congress finds that actions for or on be-  
37 half of a foreign government that constitute attempts to com-  
38 mence legal proceedings against, or attempts to compel the ap-



1      pearance of or production of documents from, any current or  
2      former official or employee of the United States or member of  
3      the Armed Forces of the United States relating to the perform-  
4      ance of official duties, other than pursuant to a status of forces  
5      agreement or other international agreement to which the  
6      United States is a party, may have a negative effect on the  
7      ability of the United States to take necessary and timely mili-  
8      tary action.

9            (b) REPORT.—Not later than 60 days after the date of the  
10      enactment of this Act, the Secretary of Defense shall submit  
11      to Congress a report on appropriate steps that could be taken  
12      by the Department of Defense (such as restrictions on military  
13      travel, limitations on military support and exchange programs,  
14      and consideration of relocating, or limiting funding for, United  
15      States or allied military commands, headquarters, or organiza-  
16      tions) to respond to an action by a foreign government de-  
17      scribed in subsection (a).

18      **SEC. 1233. SENSE OF CONGRESS ON REDEPLOYMENT OF**  
19      **UNITED STATES FORCES IN EUROPE.**

20            (a) FINDINGS.—Congress makes the following findings:

21            (1) In March 1999, in its initial round of expansion,  
22      the North Atlantic Treaty Organization (NATO) admitted  
23      Poland, the Czech Republic, and Hungary to the Alliance.

24            (2) At the Prague Summit on November 21–22, 2002,  
25      the NATO heads of state and government invited the coun-  
26      tries of Bulgaria, Estonia, Latvia, Lithuania, Romania,  
27      Slovakia, and Slovenia to join the Alliance.

28            (3) The countries admitted in the initial round of ex-  
29      pansion referred to in paragraph (1) and the seven new  
30      invitee nations referred to in paragraph (2) will in com-  
31      bination significantly alter the nature of the Alliance.

32            (4) During the first 50 years of the Alliance, NATO  
33      materially contributed to the security and stability of West-  
34      ern Europe, bringing peace and prosperity to the member  
35      nations.

36            (5) The expansion of NATO is an opportunity to as-  
37      sist the invitee nations in gaining the capabilities to ensure



12–19

1 peace, prosperity, and democracy for themselves during the  
2 next 50 years of the Alliance.

3 (6) The military structure and mission of NATO has  
4 changed, no longer being focused on the threat of a Soviet  
5 invasion, but evolving to handle new threats and new mis-  
6 sions in the area of crisis management, peacekeeping, and  
7 peace-support in and beyond the Euro-Atlantic area of op-  
8 erations.

9 (b) SENSE OF CONGRESS.—In light of the findings in sub-  
10 section (a), it is the sense of Congress that—

11 (1) the expansion of the North Atlantic Treaty Orga-  
12 nization Alliance and the evolution of the military mission  
13 of that Alliance requires a fundamental reevaluation of the  
14 current posture of United States forces stationed in Eu-  
15 rope; and

16 (2) the Secretary of Defense, in consultation with the  
17 Secretary of State, should—

18 (A) initiate a reevaluation referred to in paragraph  
19 (1); and

20 (B) in carrying out such a reevaluation, consider  
21 a military posture that takes maximum advantage of  
22 basing and training opportunities in the newly admitted  
23 and invitee states referred to in paragraphs (1) and  
24 (2), respectively, of subsection (a).

25 **SEC. 1234. SENSE OF CONGRESS CONCERNING NAVY**  
26 **PORT CALLS IN ISRAEL.**

27 It is the sense of Congress that—

28 (1) the United States has invested significant amounts  
29 of funds in expanding the capacity and security of the port  
30 of Haifa, Israel, and the United States Navy should be able  
31 to implement the necessary force protection measures that  
32 would enable it to take advantage of the repair, replenish-  
33 ment, and communications links available at that port;

34 (2) the Secretary of Defense and the Secretary of the  
35 Navy should conclude discussions with the Government of  
36 Israel and the Israel Defense Forces to establish appro-  
37 priate and effective arrangements to ensure the safety of



12-20

1 United States Navy vessels and personnel during port visits  
2 to Haifa, Israel; and  
3 (3) upon such arrangements being made, the United  
4 States Navy should consider resumption of regular port vis-  
5 its to Haifa, Israel.



13-1

1 **TITLE** **XIII—COOPERATIVE**  
2 **THREAT REDUCTION WITH STATES**  
3 **OF THE FORMER SOVIET UNION**

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.

Sec. 1302. Funding allocations.

Sec. 1303. Limitation on use of funds until certain permits obtained.

Sec. 1304. Limitation on use of funds for biological research in the former Soviet Union.

Sec. 1305. Requirement for on-site managers.

Sec. 1306. Temporary authority to waive limitation on funding for chemical weapons destruction facility in Russia.

Sec. 1307. Annual certifications on use of facilities being constructed for Cooperative Threat Reduction projects or activities.

Sec. 1308. Authority to use Cooperative Threat Reduction funds outside the former Soviet Union.

4 **SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT**  
5 **REDUCTION PROGRAMS AND FUNDS.**

6 (a) SPECIFICATION OF CTR PROGRAMS.—For purposes of  
7 section 301 and other provisions of this Act, Cooperative  
8 Threat Reduction programs are the programs specified in sec-  
9 tion 1501(b) of the National Defense Authorization Act for  
10 Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2731; 50  
11 U.S.C. 2362 note).

12 (b) FISCAL YEAR 2004 COOPERATIVE THREAT REDUC-  
13 TION FUNDS DEFINED.—As used in this title, the term “fiscal  
14 year 2004 Cooperative Threat Reduction funds” means the  
15 funds appropriated pursuant to the authorization of appropria-  
16 tions in section 301 for Cooperative Threat Reduction pro-  
17 grams.

18 (c) AVAILABILITY OF FUNDS.—Funds appropriated pursu-  
19 ant to the authorization of appropriations in section 301 for  
20 Cooperative Threat Reduction programs shall be available for  
21 obligation for three fiscal years.

22 **SEC. 1302. FUNDING ALLOCATIONS.**

23 (a) FUNDING FOR SPECIFIC PURPOSES.—Of the  
24 \$450,800,000 authorized to be appropriated to the Department  
25 of Defense for fiscal year 2004 in section 301(19) for Coopera-  
26 tive Threat Reduction programs, the following amounts may be  
27 obligated for the purposes specified:



1 (1) For strategic offensive arms elimination in Russia,  
2 \$57,600,000.

3 (2) For strategic nuclear arms elimination in Ukraine,  
4 \$3,900,000.

5 (3) For nuclear weapons transportation security in  
6 Russia, \$23,200,000.

7 (4) For nuclear weapons storage security in Russia,  
8 \$48,000,000.

9 (5) For activities designated as Other Assessments/Ad-  
10 ministrative Support, \$13,100,000.

11 (6) For defense and military contacts, \$11,100,000.

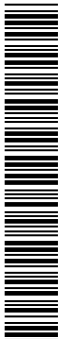
12 (7) For chemical weapons destruction in Russia,  
13 \$200,300,000.

14 (8) For biological weapons proliferation prevention in  
15 the former Soviet Union, \$54,200,000.

16 (9) For weapons of mass destruction proliferation pre-  
17 vention in the states of the former Soviet Union,  
18 \$39,400,000.

19 (b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS  
20 FOR OTHER PURPOSES.—No fiscal year 2004 Cooperative  
21 Threat Reduction funds may be obligated or expended for a  
22 purpose other than a purpose listed in paragraphs (1) through  
23 (9) of subsection (a) until 30 days after the date that the Sec-  
24 retary of Defense submits to Congress a report on the purpose  
25 for which the funds will be obligated or expended and the  
26 amount of funds to be obligated or expended. Nothing in the  
27 preceding sentence shall be construed as authorizing the obliga-  
28 tion or expenditure of fiscal year 2004 Cooperative Threat Re-  
29 duction funds for a purpose for which the obligation or expend-  
30 iture of such funds is specifically prohibited under this title or  
31 any other provision of law.

32 (c) LIMITED AUTHORITY TO VARY INDIVIDUAL  
33 AMOUNTS.—(1) Subject to paragraphs (2) and (3), in any case  
34 in which the Secretary of Defense determines that it is nec-  
35 essary to do so in the national interest, the Secretary may obli-  
36 gate amounts appropriated for fiscal year 2004 for a purpose





1 listed in any of the paragraphs in subsection (a) in excess of  
2 the specific amount authorized for that purpose.

3 (2) An obligation of funds for a purpose stated in any of  
4 the paragraphs in subsection (a) in excess of the specific  
5 amount authorized for such purpose may be made using the  
6 authority provided in paragraph (1) only after—

7 (A) the Secretary submits to Congress notification of  
8 the intent to do so together with a complete discussion of  
9 the justification for doing so; and

10 (B) 15 days have elapsed following the date of the no-  
11 tification.

12 (3) The Secretary may not, under the authority provided  
13 in paragraph (1), obligate amounts for a purpose stated in any  
14 of paragraphs (5) through (8) of subsection (a) in excess of  
15 125 percent of the specific amount authorized for such purpose.

16 **SEC. 1303. LIMITATION ON USE OF FUNDS UNTIL CER-**  
17 **TAIN PERMITS OBTAINED.**

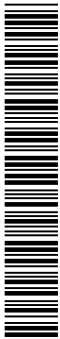
18 (a) IN GENERAL.—The Secretary of Defense shall seek to  
19 obtain all the permits required to complete each phase of con-  
20 struction of a project under Cooperative Threat Reduction pro-  
21 grams before obligating significant amounts of funding for that  
22 phase of the project.

23 (b) USE OF FUNDS FOR NEW CONSTRUCTION  
24 PROJECTS.—Except as provided in subsection (e), with respect  
25 to a new construction project to be carried out by the Depart-  
26 ment of Defense under Cooperative Threat Reduction pro-  
27 grams, not more than 40 percent of the total costs of the  
28 project may be obligated from Cooperative Threat Reduction  
29 funds for any fiscal year until the Secretary of Defense—

30 (1) determines the number and type of permits that  
31 may be required for the lifetime of the project in the pro-  
32 posed location or locations of the project; and

33 (2) obtains from the state in which the project is to  
34 be located any permits that may be required to begin con-  
35 struction.

36 (c) IDENTIFICATION OF REQUIRED PERMITS FOR ONGO-  
37 ING INCOMPLETE CONSTRUCTION PROJECTS.—With respect to



1 an incomplete construction project carried out by the Depart-  
2 ment of Defense under Cooperative Threat Reduction pro-  
3 grams, the Secretary shall identify all the permits that are re-  
4 quired for the lifetime of the project not later than 120 days  
5 after the date of the enactment of this Act.

6 (d) USE OF FUNDS FOR CERTAIN INCOMPLETE CON-  
7 STRUCTION PROJECTS.—Except as provided in subsection (e),  
8 with respect to an incomplete construction project carried out  
9 by the Department of Defense under Cooperative Threat Re-  
10 duction programs for which construction has not yet com-  
11 menced as of the date of the enactment of this Act, not more  
12 than 40 percent of the total costs of the project may be obli-  
13 gated from Cooperative Threat Reduction funds for any fiscal  
14 year until the Secretary obtains from the state in which the  
15 project is located the permits required to commence construc-  
16 tion on the project.

17 (e) EXCEPTION TO LIMITATIONS ON USE OF FUNDS.—  
18 The limitation in subsection (b) or (d) on the obligation of  
19 funds for a construction project otherwise covered by such sub-  
20 section shall not apply with respect to the obligation of funds  
21 for a particular project if the Secretary—

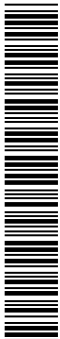
22 (1) determines that it is necessary in the national in-  
23 terest to obligate funds for such project; and

24 (2) submits to the congressional defense committees a  
25 notification of the intent to obligate funds for such project,  
26 together with a complete discussion of the justification for  
27 doing so.

28 (f) DEFINITIONS.—In this section, with respect to a  
29 project under Cooperative Threat Reduction programs:

30 (1) INCOMPLETE CONSTRUCTION PROJECT.—The term  
31 “incomplete construction project” means a construction  
32 project for which funds have been obligated or expended be-  
33 fore the date of the enactment of this Act and which is not  
34 completed as of such date.

35 (2) NEW CONSTRUCTION PROJECT.—The term “new  
36 construction project” means a construction project for



1 which no funds have been obligated or expended as of the  
2 date of the enactment of this Act.

3 (3) PERMIT.—The term “permit” means any local or  
4 national permit for development, general construction, envi-  
5 ronmental, land use, or other purposes that is required for  
6 purposes of major construction in a state of the former So-  
7 viet Union in which the construction project is being or is  
8 proposed to be carried out.

9 **SEC. 1304. LIMITATION ON USE OF FUNDS FOR BIOLOGI-**  
10 **CAL RESEARCH IN THE FORMER SOVIET**  
11 **UNION.**

12 (a) LIMITATION ON USE OF FUNDS.—Except as provided  
13 in subsection (b), none of the funds authorized to be appro-  
14 priated pursuant to section 1302 for biological weapons pro-  
15 liferation prevention may be obligated to begin any collabo-  
16 rative biodefense research or bioattack early warning and pre-  
17 paredness project under a Cooperative Threat Reduction pro-  
18 gram at a facility in a state of the former Soviet Union until  
19 the Secretary of Defense notifies Congress that the Secretary—

20 (1) has determined, through access to the facility, that  
21 no offensive biological weapons research prohibited by  
22 international law is being conducted at the facility; and

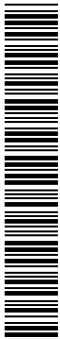
23 (2) has determined that appropriate security measures  
24 have begun to be, or will be, put in place at the facility to  
25 prevent theft of dangerous pathogens from the facility.

26 (b) AVAILABILITY OF FUNDS FOR DETERMINATIONS.—Of  
27 the funds referred to in subsection (a) that are available for  
28 projects referred to in that subsection, up to 25 percent of such  
29 funds may be obligated and expended for purposes of making  
30 determinations referred to in that subsection.

31 (c) FACILITY DEFINED.—In this section, the term “facil-  
32 ity” means the buildings and areas at a location in which Coop-  
33 erative Threat Reduction program work is actually being con-  
34 ducted.

35 **SEC. 1305. REQUIREMENT FOR ON-SITE MANAGERS.**

36 (a) ON-SITE MANAGER REQUIREMENT.—Before obligating  
37 any Cooperative Threat Reduction funds for a project described



## 13–6

1 in subsection (b), the Secretary of Defense shall appoint one  
2 on-site manager for that project. The manager shall be ap-  
3 pointed from among employees of the Federal Government.

4 (b) PROJECTS COVERED.—Subsection (a) applies to a  
5 project—

6 (1) to be located in a state of the former Soviet Union;

7 (2) which involves dismantlement, destruction, or stor-  
8 age facilities, or construction of a facility; and

9 (3) with respect to which the total contribution by the  
10 Department of Defense is expected to exceed \$50,000,000.

11 (c) DUTIES OF ON-SITE MANAGER.—The on-site manager  
12 appointed under subsection (a) shall—

13 (1) develop, in cooperation with representatives from  
14 governments of countries participating in the project, a list  
15 of those steps or activities critical to achieving the project's  
16 disarmament or nonproliferation goals;

17 (2) establish a schedule for completing those steps or  
18 activities;

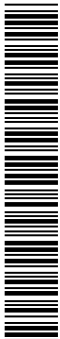
19 (3) meet with all participants to seek assurances that  
20 those steps or activities are being completed on schedule;  
21 and

22 (4) suspend United States participation in a project  
23 when a non-United States participant fails to complete a  
24 scheduled step or activity on time, unless directed by the  
25 Secretary of Defense to resume United States participation.

26 (d) AUTHORITY TO MANAGE MORE THAN ONE  
27 PROJECT.—(1) Subject to paragraph (2), an employee of the  
28 Federal Government may serve as on-site manager for more  
29 than one project, including projects at different locations.

30 (2) If such an employee serves as on-site manager for  
31 more than one project in a fiscal year, the total cost of the  
32 projects for that fiscal year may not exceed \$150,000,000.

33 (e) STEPS OR ACTIVITIES.—Steps or activities referred to  
34 in subsection (c)(1) are those activities that, if not completed,  
35 will prevent a project from achieving its disarmament or non-  
36 proliferation goals, including, at a minimum, the following:



1 (1) Identification and acquisition of permits (as de-  
2 fined in section 1303).

3 (2) Verification that the items, substances, or capabili-  
4 ties to be dismantled, secured, or otherwise modified are  
5 available for dismantlement, securing, or modification.

6 (3) Timely provision of financial, personnel, manage-  
7 ment, transportation, and other resources.

8 (f) NOTIFICATION TO CONGRESS.—In any case in which  
9 the Secretary of Defense directs an on-site manager to resume  
10 United States participation in a project under subsection  
11 (c)(4), the Secretary shall concurrently notify Congress of such  
12 direction.

13 (g) EFFECTIVE DATE.—This section shall take effect six  
14 months after the date of the enactment of this Act.

15 **SEC. 1306. TEMPORARY AUTHORITY TO WAIVE LIMITA-**  
16 **TION ON FUNDING FOR CHEMICAL WEAPONS**  
17 **DESTRUCTION FACILITY IN RUSSIA.**

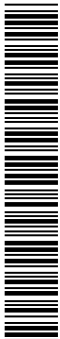
18 (a) TEMPORARY AUTHORITY.—The conditions described in  
19 section 1305 of the National Defense Authorization Act for  
20 Fiscal Year 2000 (Public Law 106-65; 22 U.S.C. 5952 note)  
21 shall not apply to the obligation and expenditure of funds avail-  
22 able for obligation during fiscal year 2004 for the planning, de-  
23 sign, or construction of a chemical weapons destruction facility  
24 in Russia if the President submits to Congress a written certifi-  
25 cation that includes—

26 (1) a statement as to why the waiver of the conditions  
27 is important to the national security interests of the United  
28 States;

29 (2) a full and complete justification for the waiver of  
30 the conditions; and

31 (3) a plan to promote a full and accurate disclosure  
32 by Russia regarding the size, content, status, and location  
33 of its chemical weapons stockpile.

34 (b) EXPIRATION.—The authority in subsection (a) shall  
35 expire on September 30, 2004.



1   **SEC. 1307. ANNUAL CERTIFICATIONS ON USE OF FACILI-**  
2                   **TIES BEING CONSTRUCTED FOR COOPERA-**  
3                   **TIVE THREAT REDUCTION PROJECTS OR AC-**  
4                   **TIVITIES.**

5           (a) CERTIFICATION ON USE OF FACILITIES BEING CON-  
6   STRUCTED.—Not later than the first Monday of February each  
7   year, the Secretary of Defense shall submit to the congressional  
8   defense committees a certification for each facility for a Coop-  
9   erative Threat Reduction project or activity for which construc-  
10   tion occurred during the preceding fiscal year on matters as  
11   follows:

12           (1) Whether or not such facility will be used for its  
13   intended purpose by the government of the state of the  
14   former Soviet Union in which the facility is constructed.

15           (2) Whether or not the government of such state re-  
16   mains committed to the use of such facility for its intended  
17   purpose.

18           (3) Whether those actions needed to ensure security at  
19   the facility, including secure transportation of any mate-  
20   rials, substances, or weapons to, from, or within the facil-  
21   ity, have been taken.

22           (b) APPLICABILITY.—Subsection (a) shall apply to—

23           (1) any facility the construction of which commences  
24   on or after the date of the enactment of this Act; and

25           (2) any facility the construction of which is ongoing as  
26   of that date.

27   **SEC. 1308. AUTHORITY TO USE COOPERATIVE THREAT**  
28                   **REDUCTION FUNDS OUTSIDE THE FORMER**  
29                   **SOVIET UNION.**

30           (a) AUTHORITY.—Subject to the provisions of this section,  
31   the President may obligate and expend Cooperative Threat Re-  
32   duction funds for a fiscal year, and any Cooperative Threat Re-  
33   duction funds for a fiscal year before such fiscal year that re-  
34   main available for obligation, for a proliferation threat reduc-  
35   tion project or activity outside the states of the former Soviet  
36   Union if the President determines each of the following:

37           (1) That such project or activity will—



1 (A)(i) assist the United States in the resolution of  
2 a critical emerging proliferation threat; or

3 (ii) permit the United States to take advantage of  
4 opportunities to achieve long-standing nonproliferation  
5 goals; and

6 (B) be completed in a short period of time.

7 (2) That the Department of Defense is the entity of  
8 the Federal Government that is most capable of carrying  
9 out such project or activity.

10 (b) SCOPE OF AUTHORITY.—The authority in subsection  
11 (a) to obligate and expend funds for a project or activity in-  
12 cludes authority to provide equipment, goods, and services for  
13 such project or activity utilizing such funds, but does not in-  
14 clude authority to provide cash directly to such project or activ-  
15 ity.

16 (c) LIMITATION ON TOTAL AMOUNT OF OBLIGATION.—  
17 The amount that may be obligated in a fiscal year under the  
18 authority in subsection (a) may not exceed \$50,000,000.

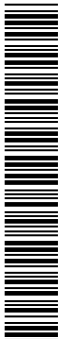
19 (d) LIMITATION ON AVAILABILITY OF FUNDS.—(1) The  
20 President may not obligate funds for a project or activity under  
21 the authority in subsection (a) until the President makes each  
22 determination specified in that subsection with respect to such  
23 project or activity.

24 (2) Not later than 10 days after obligating funds under  
25 the authority in subsection (a) for a project or activity, the  
26 President shall notify Congress in writing of the determinations  
27 made under paragraph (1) with respect to such project or ac-  
28 tivity, together with—

29 (A) a justification for such determinations; and

30 (B) a description of the scope and duration of such  
31 project or activity.

32 (e) ADDITIONAL LIMITATIONS AND REQUIREMENTS.—Ex-  
33 cept as otherwise provided in subsections (a) and (b), the exer-  
34 cise of the authority in subsection (a) shall be subject to any  
35 requirement or limitation under another provision of law as fol-  
36 lows:



## 13-10

1           (1) Any requirement for prior notice or other reports  
2           to Congress on the use of Cooperative Threat Reduction  
3           funds or on Cooperative Threat Reduction projects or ac-  
4           tivities.

5           (2) Any limitation on the obligation or expenditure of  
6           Cooperative Threat Reduction funds.

7           (3) Any limitation on Cooperative Threat Reduction  
8           projects or activities.





14–1

1  
2

# TITLE XIV—SERVICES ACQUISITION REFORM

Sec. 1401. Short title.

## Subtitle A—Acquisition Workforce and Training

Sec. 1411. Definition of acquisition.

Sec. 1412. Acquisition workforce training fund.

Sec. 1413. Acquisition workforce recruitment program.

Sec. 1414. Architectural and engineering acquisition workforce.

## Subtitle B—Adaptation of Business Acquisition Practices

### PART I—ADAPTATION OF BUSINESS MANAGEMENT PRACTICES

Sec. 1421. Chief Acquisition Officers.

Sec. 1422. Chief Acquisition Officers Council.

Sec. 1423. Statutory and regulatory review.

### PART II—OTHER ACQUISITION IMPROVEMENTS

Sec. 1426. Extension of authority to carry out franchise fund programs.

Sec. 1427. Improvements in contracting for architectural and engineering services.

Sec. 1428. Authorization of telecommuting for Federal contractors.

## Subtitle C—Acquisitions of Commercial Items

Sec. 1431. Additional incentive for use of performance-based contracting for services.

Sec. 1432. Authorization of additional commercial contract types.

Sec. 1433. Clarification of commercial services definition.

## Subtitle D—Other Matters

Sec. 1441. Authority to enter into certain transactions for defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack.

Sec. 1442. Public disclosure of noncompetitive contracting for the reconstruction of infrastructure in Iraq.

Sec. 1443. Special emergency procurement authority.

## 3 SEC. 1401. SHORT TITLE.

4 This title may be cited as the “Services Acquisition Re-  
5 form Act of 2003”.

## 6 Subtitle A—Acquisition Workforce 7 and Training

## 8 SEC. 1411. DEFINITION OF ACQUISITION.

9 Section 4 of the Office of Federal Procurement Policy Act  
10 (41 U.S.C. 403) is amended by adding at the end the following:

11 “(16) The term ‘acquisition’—

12 “(A) means the process of acquiring, with appro-  
13 priated funds, by contract for purchase or lease, prop-  
14 erty or services (including construction) that support



the missions and goals of an executive agency, from the point at which the requirements of the executive agency are established in consultation with the chief acquisition officer of the executive agency; and

“(B) includes—

“(i) the process of acquiring property or services that are already in existence, or that must be created, developed, demonstrated, and evaluated;

“(ii) the description of requirements to satisfy agency needs;

“(iii) solicitation and selection of sources;

“(iv) award of contracts;

“(v) contract performance;

“(vi) contract financing;

“(vii) management and measurement of contract performance through final delivery and payment; and

“(viii) technical and management functions directly related to the process of fulfilling agency requirements by contract.”.

**SEC. 1412. ACQUISITION WORKFORCE TRAINING FUND.**

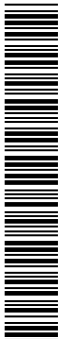
(a) PURPOSES.—The purposes of this section are to ensure that the Federal acquisition workforce—

(1) adapts to fundamental changes in the nature of Federal Government acquisition of property and services associated with the changing roles of the Federal Government; and

(2) acquires new skills and a new perspective to enable it to contribute effectively in the changing environment of the 21st century.

(b) ESTABLISHMENT OF FUND.—Section 37 of the Office of Federal Procurement Policy Act (41 U.S.C. 433) is amended by adding at the end of subsection (h) the following new paragraph:

“(3) ACQUISITION WORKFORCE TRAINING FUND.—(A) The Administrator of General Services shall establish an acquisition workforce training fund. The Administrator



1 shall manage the fund through the Federal Acquisition In-  
2 stitute to support the training of the acquisition workforce  
3 of the executive agencies other than the Department of De-  
4 fense. The Administrator shall consult with the Adminis-  
5 trator for Federal Procurement Policy in managing the  
6 fund.

7 “(B) There shall be credited to the acquisition work-  
8 force training fund 5 percent of the fees collected by execu-  
9 tive agencies (other than the Department of Defense)  
10 under the following contracts:

11 “(i) Governmentwide task and delivery-order con-  
12 tracts entered into under sections 303H and 303I of  
13 the Federal Property and Administrative Services Act  
14 of 1949 (41 U.S.C. 253h and 253i).

15 “(ii) Governmentwide contracts for the acquisition  
16 of information technology as defined in section 11101  
17 of title 40, United States Code, and multiagency acqui-  
18 sition contracts for such technology authorized by sec-  
19 tion 11314 of such title.

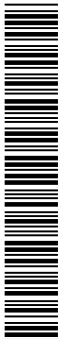
20 “(iii) Multiple-award schedule contracts entered  
21 into by the Administrator of General Services.

22 “(C) The head of an executive agency that administers  
23 a contract described in subparagraph (B) shall remit to the  
24 General Services Administration the amount required to be  
25 credited to the fund with respect to such contract at the  
26 end of each quarter of the fiscal year.

27 “(D) The Administrator of General Services, through  
28 the Office of Federal Acquisition Policy, shall ensure that  
29 funds collected for training under this section are not used  
30 for any purpose other than the purpose specified in sub-  
31 paragraph (A).

32 “(E) Amounts credited to the fund shall be in addition  
33 to funds requested and appropriated for education and  
34 training referred to in paragraph (1).

35 “(F) Amounts credited to the fund shall remain avail-  
36 able to be expended only in the fiscal year for which cred-  
37 ited and the two succeeding fiscal years.



1 “(G) This paragraph shall cease to be effective five  
2 years after the date of the enactment of the National De-  
3 fense Authorization Act for Fiscal Year 2004.”.

4 (c) EXCEPTION.—This section and the amendments made  
5 by this section shall not apply to the acquisition workforce of  
6 the Department of Defense. Fees charged to the Department  
7 of Defense under contracts covered by section 37(h)(3) of the  
8 Office of Federal Procurement Policy Act, as added by sub-  
9 section (b), shall be reduced by 5 percent to reflect the Depart-  
10 ment’s nonparticipation in the acquisition workforce training  
11 fund established by such section.

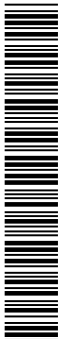
12 **SEC. 1413. ACQUISITION WORKFORCE RECRUITMENT**  
13 **PROGRAM.**

14 (a) DETERMINATION OF SHORTAGE CATEGORY POSI-  
15 TIONS.—For purposes of sections 3304, 5333, and 5753 of title  
16 5, United States Code, the head of a department or agency of  
17 the United States (other than the Secretary of Defense) may  
18 determine, under regulations prescribed by the Office of Per-  
19 sonnel Management, that certain Federal acquisition positions  
20 (as described in section 37(g)(1)(A) of the Office of Federal  
21 Procurement Policy Act (41 U.S.C. 433(g)(1)(A)) are shortage  
22 category positions in order to use the authorities in those sec-  
23 tions to recruit and appoint highly qualified persons directly to  
24 such positions in the department or agency.

25 (b) TERMINATION OF AUTHORITY.—The head of a depart-  
26 ment or agency may not appoint a person to a position of em-  
27 ployment under this section after September 30, 2007.

28 (c) REPORT.—Not later than March 31, 2007, the Direc-  
29 tor of the Office of Personnel Management, in consultation  
30 with the Administrator for Federal Procurement Policy, shall  
31 submit to Congress a report on the implementation of this sec-  
32 tion. The report shall include—

33 (1) a list of the departments and agencies that exer-  
34 cised the authority provided in this section, and whether  
35 the exercise of the authority was carried out in accordance  
36 with the regulations prescribed by the Office of Personnel  
37 Management;



(2) the Director’s assessment of the efficacy of the exercise of the authority provided in this section in attracting employees with unusually high qualifications to the acquisition workforce; and

(3) any recommendations considered appropriate by the Director on whether the authority to carry out the program should be extended.

**SEC. 1414. ARCHITECTURAL AND ENGINEERING ACQUISITION WORKFORCE.**

The Administrator for Federal Procurement Policy, in consultation with the Secretary of Defense, the Administrator of General Services, and the Director of the Office of Personnel Management, shall develop and implement a plan to ensure that the Federal Government maintains the necessary capability with respect to the acquisition of architectural and engineering services to—

(1) ensure that Federal Government employees have the expertise to determine agency requirements for such services;

(2) establish priorities and programs (including acquisition plans);

(3) establish professional standards;

(4) develop scopes of work; and

(5) award and administer contracts for such services.

**Subtitle B—Adaptation of Business Acquisition Practices**

**PART I—ADAPTATION OF BUSINESS MANAGEMENT PRACTICES**

**SEC. 1421. CHIEF ACQUISITION OFFICERS.**

(a) APPOINTMENT OF CHIEF ACQUISITION OFFICERS.—

(1) Section 16 of the Office of Federal Procurement Policy Act (41 U.S.C. 414) is amended to read as follows:

**“SEC. 16. CHIEF ACQUISITION OFFICERS AND SENIOR PROCUREMENT EXECUTIVES.**

“(a) ESTABLISHMENT OF AGENCY CHIEF ACQUISITION OFFICERS.—(1) The head of each executive agency described in section 901(b)(1) (other than the Department of Defense)



1 or section 901(b)(2)(C) of title 31, United States Code, with  
2 a Chief Financial Officer appointed or designated under section  
3 901(a) of such title shall appoint or designate a non-career em-  
4 ployee as Chief Acquisition Officer for the agency, who shall—

5 “(A) have acquisition management as that official’s  
6 primary duty; and

7 “(B) advise and assist the head of the executive agen-  
8 cy and other agency officials to ensure that the mission of  
9 the executive agency is achieved through the management  
10 of the agency’s acquisition activities.

11 “(b) AUTHORITY AND FUNCTIONS OF AGENCY CHIEF AC-  
12 QUISSION OFFICERS.—The functions of each Chief Acquisition  
13 Officer shall include—

14 “(1) monitoring the performance of acquisition activi-  
15 ties and acquisition programs of the executive agency, eval-  
16 uating the performance of those programs on the basis of  
17 applicable performance measurements, and advising the  
18 head of the executive agency regarding the appropriate  
19 business strategy to achieve the mission of the executive  
20 agency;

21 “(2) increasing the use of full and open competition in  
22 the acquisition of property and services by the executive  
23 agency by establishing policies, procedures, and practices  
24 that ensure that the executive agency receives a sufficient  
25 number of sealed bids or competitive proposals from re-  
26 sponsible sources to fulfill the Government’s requirements  
27 (including performance and delivery schedules) at the low-  
28 est cost or best value considering the nature of the property  
29 or service procured;

30 “(3) increasing appropriate use of performance-based  
31 contracting and performance specifications;

32 “(4) making acquisition decisions consistent with all  
33 applicable laws and establishing clear lines of authority, ac-  
34 countability, and responsibility for acquisition decision-  
35 making within the executive agency;

36 “(5) managing the direction of acquisition policy for  
37 the executive agency, including implementation of the



1 unique acquisition policies, regulations, and standards of  
2 the executive agency;

3 “(6) developing and maintaining an acquisition career  
4 management program in the executive agency to ensure  
5 that there is an adequate professional workforce; and

6 “(7) as part of the strategic planning and performance  
7 evaluation process required under section 306 of title 5,  
8 United States Code, and sections 1105(a)(28), 1115, 1116,  
9 and 9703 of title 31, United States Code—

10 “(A) assessing the requirements established for  
11 agency personnel regarding knowledge and skill in ac-  
12 quisition resources management and the adequacy of  
13 such requirements for facilitating the achievement of  
14 the performance goals established for acquisition man-  
15 agement;

16 “(B) in order to rectify any deficiency in meeting  
17 such requirements, developing strategies and specific  
18 plans for hiring, training, and professional develop-  
19 ment; and

20 “(C) reporting to the head of the executive agency  
21 on the progress made in improving acquisition manage-  
22 ment capability.

23 “(c) SENIOR PROCUREMENT EXECUTIVE.—(1) The head  
24 of each executive agency shall designate a senior procurement  
25 executive who shall be responsible for management direction of  
26 the procurement system of the executive agency, including im-  
27 plementation of the unique procurement policies, regulations,  
28 and standards of the executive agency.

29 “(2) In the case of an executive agency for which a Chief  
30 Acquisition Officer has been appointed or designated under  
31 subsection (a), the head of such executive agency shall either—

32 “(A) designate the Chief Acquisition Officer as the  
33 senior procurement executive for the executive agency; or

34 “(B) ensure that the senior procurement executive  
35 designated for the executive agency under paragraph (1)  
36 reports directly to the Chief Acquisition Officer without in-  
37 tervening authority.”.



1 (2) The item relating to section 16 in the table of contents  
2 in section 1(b) of such Act is amended to read as follows:

“Sec. 16. Chief Acquisition Officers and senior procurement executives.”.

3 (b) TECHNICAL CORRECTION.—Section 1115(a) of title  
4 31, United States Code, is amended by striking “section  
5 1105(a)(29)” and inserting “section 1105(a)(28)”.

6 **SEC. 1422. CHIEF ACQUISITION OFFICERS COUNCIL.**

7 (a) ESTABLISHMENT OF COUNCIL.—The Office of Federal  
8 Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by  
9 inserting after section 16 the following new section:

10 **“SEC. 16A. CHIEF ACQUISITION OFFICERS COUNCIL.**

11 “(a) ESTABLISHMENT.—There is established in the execu-  
12 tive branch a Chief Acquisition Officers Council.

13 “(b) MEMBERSHIP.—The members of the Council shall be  
14 as follows:

15 “(1) The Deputy Director for Management of the Of-  
16 fice of Management and Budget, who shall act as Chair-  
17 man of the Council.

18 “(2) The Administrator for Federal Procurement Pol-  
19 icy.

20 “(3) The Under Secretary of Defense for Acquisition,  
21 Technology, and Logistics.

22 “(4) The chief acquisition officer of each executive  
23 agency that is required to have a chief acquisition officer  
24 under section 16 and the senior procurement executive of  
25 each military department.

26 “(5) Any other senior agency officer of each executive  
27 agency, appointed by the head of the agency in consultation  
28 with the Chairman, who can effectively assist the Council  
29 in performing the functions set forth in subsection (e) and  
30 supporting the associated range of acquisition activities.

31 “(c) LEADERSHIP; SUPPORT.—(1) The Administrator for  
32 Federal Procurement Policy shall lead the activities of the  
33 Council on behalf of the Deputy Director for Management.

34 “(2)(A) The Vice Chairman of the Council shall be se-  
35 lected by the Council from among its members.





1 “(B) The Vice Chairman shall serve a 1-year term, and  
2 may serve multiple terms.

3 “(3) The Administrator of General Services shall provide  
4 administrative and other support for the Council.

5 “(d) PRINCIPAL FORUM.—The Council is designated the  
6 principal interagency forum for monitoring and improving the  
7 Federal acquisition system.

8 “(e) FUNCTIONS.—The Council shall perform functions  
9 that include the following:

10 “(1) Develop recommendations for the Director of the  
11 Office of Management and Budget on Federal acquisition  
12 policies and requirements.

13 “(2) Share experiences, ideas, best practices, and inno-  
14 vative approaches related to Federal acquisition.

15 “(3) Assist the Administrator in the identification, de-  
16 velopment, and coordination of multiagency projects and  
17 other innovative initiatives to improve Federal acquisition.

18 “(4) Promote effective business practices that ensure  
19 the timely delivery of best value products to the Federal  
20 Government and achieve appropriate public policy objec-  
21 tives.

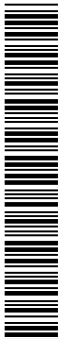
22 “(5) Further integrity, fairness, competition, openness,  
23 and efficiency in the Federal acquisition system.

24 “(6) Work with the Office of Personnel Management  
25 to assess and address the hiring, training, and professional  
26 development needs of the Federal Government related to  
27 acquisition.

28 “(7) Work with the Administrator and the Federal Ac-  
29 quisition Regulatory Council to promote the business prac-  
30 tices referred to in paragraph (4) and other results of the  
31 functions carried out under this subsection.”.

32 (b) CLERICAL AMENDMENT.—The table of contents in sec-  
33 tion 1(b) of such Act is amended by inserting after the item  
34 relating to section 16 the following new item:

“Sec. 16A. Chief Acquisition Officers Council.”.



1     **SEC. 1423. STATUTORY AND REGULATORY REVIEW.**

2           (a) ESTABLISHMENT.—Not later than 90 days after the  
3     date of the enactment of this Act, the Administrator for Fed-  
4     eral Procurement Policy shall establish an advisory panel to re-  
5     view laws and regulations regarding the use of commercial  
6     practices, performance-based contracting, the performance of  
7     acquisition functions across agency lines of responsibility, and  
8     the use of Governmentwide contracts.

9           (b) MEMBERSHIP.—The panel shall be composed of at  
10    least nine individuals who are recognized experts in acquisition  
11    law and Government acquisition policy. In making appoint-  
12    ments to the panel, the Administrator shall—

13           (1) consult with the Secretary of Defense, the Admin-  
14    istrator of General Services, the Committees on Armed  
15    Services and Government Reform of the House of Rep-  
16    resentatives, and the Committees on Armed Services and  
17    Governmental Affairs of the Senate; and

18           (2) ensure that the members of the panel reflect the  
19    diverse experiences in both the public and private sectors,  
20    including academia.

21           (c) DUTIES.—The panel shall—

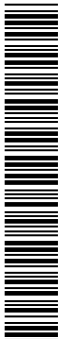
22           (1) review all Federal acquisition laws and regulations,  
23    and, to the extent practicable, government-wide acquisition  
24    policies, with a view toward ensuring effective and appro-  
25    priate use of commercial practices and performance-based  
26    contracting; and

27           (2) make any recommendations for the modification of  
28    such laws, regulations, or policies that are considered nec-  
29    essary as a result of such review—

30           (A) to protect the best interests of the Federal  
31    Government;

32           (B) to ensure the continuing financial and ethical  
33    integrity of acquisitions by the Federal Government;  
34    and

35           (C) to amend or eliminate any provisions in such  
36    laws, regulations, or policies that are unnecessary for  
37    the effective, efficient, and fair award and administra-



tion of contracts for the acquisition by the Federal Government of goods and services.

(d) REPORT.—Not later than one year after the establishment of the panel, the panel shall submit to the Administrator and to the Committees on Armed Services and Government Reform of the House of Representatives and the Committees on Armed Services and Governmental Affairs of the Senate a report containing a detailed statement of the findings, conclusions, and recommendations of the panel.

## PART II—OTHER ACQUISITION IMPROVEMENTS

### SEC. 1426. EXTENSION OF AUTHORITY TO CARRY OUT FRANCHISE FUND PROGRAMS.

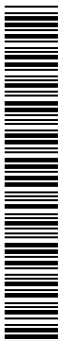
Section 403(f) of the Federal Financial Management Act of 1994 (Public Law 103–356; 31 U.S.C. 501 note) is amended by striking “October 1, 2003” and inserting “December 31, 2004”.

### SEC. 1427. IMPROVEMENTS IN CONTRACTING FOR ARCHITECTURAL AND ENGINEERING SERVICES.

(a) TITLE 10.—Section 2855(b) of title 10, United States Code, is amended in paragraph (2), by striking “\$85,000” and inserting “\$300,000”.

(b) ARCHITECTURAL AND ENGINEERING SERVICES.—Architectural and engineering services (as defined in section 1102 of title 40, United States Code) shall not be offered under multiple-award schedule contracts entered into by the Administrator of General Services or under Governmentwide task and delivery order contracts entered into under sections 2304a and 2304b of title 10, United States Code, or sections 303H and 303I of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h and 253i) unless such services—

(1) are performed under the direct supervision of a professional architect or engineer licensed, registered, or certified in the State, territory (including the Commonwealth of Puerto Rico), possession, or Federal District in which the services are to be performed; and



1 (2) are awarded in accordance with the selection pro-  
2 cedures set forth in chapter 11 of title 40, United States  
3 Code.

4 **SEC. 1428. AUTHORIZATION OF TELECOMMUTING FOR**  
5 **FEDERAL CONTRACTORS.**

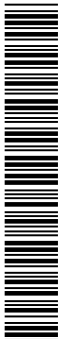
6 (a) AMENDMENT TO THE FEDERAL ACQUISITION REGU-  
7 LATION.—Not later than 180 days after the date of the enact-  
8 ment of this Act, the Federal Acquisition Regulatory Council  
9 shall amend the Federal Acquisition Regulation issued in ac-  
10 cordance with sections 6 and 25 of the Office of Federal Pro-  
11 curement Policy Act (41 U.S.C. 405 and 421) to permit tele-  
12 commuting by employees of Federal Government contractors in  
13 the performance of contracts entered into with executive agen-  
14 cies.

15 (b) CONTENT OF AMENDMENT.—The regulation issued  
16 pursuant to subsection (a) shall, at a minimum, provide that  
17 solicitations for the acquisition of property or services may not  
18 set forth any requirement or evaluation criteria that would—

19 (1) render an offeror ineligible to enter into a contract  
20 on the basis of the inclusion of a plan of the offeror to per-  
21 mit the offeror’s employees to telecommute, unless the con-  
22 tracting officer concerned first determines that the require-  
23 ments of the agency, including security requirements, can-  
24 not be met if the telecommuting is permitted and docu-  
25 ments in writing the basis for that determination; or

26 (2) reduce the scoring of an offer on the basis of the  
27 inclusion in the offer of a plan of the offeror to permit the  
28 offeror’s employees to telecommute, unless the contracting  
29 officer concerned first determines that the requirements of  
30 the agency, including security requirements, would be ad-  
31 versely impacted if telecommuting is permitted and docu-  
32 ments in writing the basis for that determination.

33 (c) DEFINITION.—In this section, the term “executive  
34 agency” has the meaning given that term in section 4(1) of the  
35 Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).



## Subtitle C—Acquisitions of Commercial Items

### **SEC. 1431. ADDITIONAL INCENTIVE FOR USE OF PERFORMANCE-BASED CONTRACTING FOR SERVICES.**

(a) IN GENERAL.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

#### **“SEC. 41. INCENTIVES FOR EFFICIENT PERFORMANCE OF SERVICES CONTRACTS.**

“(a) INCENTIVE FOR USE OF PERFORMANCE-BASED SERVICES CONTRACTS.— A performance-based contract for the procurement of services entered into by an executive agency or a performance-based task order for services issued by an executive agency may be treated as a contract for the procurement of commercial items if—

“(1) the value of the contract or task order is estimated not to exceed \$25,000,000;

“(2) the contract or task order sets forth specifically each task to be performed and, for each task—

“(A) defines the task in measurable, mission-related terms;

“(B) identifies the specific end products or output to be achieved; and

“(C) contains firm, fixed prices for specific tasks to be performed or outcomes to be achieved; and

“(3) the source of the services provides similar services to the general public under terms and conditions similar to those offered to the Federal Government.

“(b) REGULATIONS.—The regulations implementing this section shall require agencies to collect and maintain reliable data sufficient to identify the contracts or task orders treated as contracts for commercial items using the authority of this section. The data may be collected using the Federal Procurement Data System or other reporting mechanism.

“(c) REPORT.—Not later than two years after the date of the enactment of this section, the Director of the Office of



1 Management and Budget shall prepare and submit to the Com-  
2 mittees on Governmental Affairs and on Armed Services of the  
3 Senate and the Committees on Government Reform and on  
4 Armed Services of the House of Representatives a report on the  
5 contracts or task orders treated as contracts for commercial  
6 items using the authority of this section. The report shall in-  
7 clude data on the use of such authority both government-wide  
8 and for each department and agency.

9 “(d) EXPIRATION.—The authority under this section shall  
10 expire 10 years after the date of the enactment of this sec-  
11 tion.”.

12 (b) CENTER OF EXCELLENCE IN SERVICE CON-  
13 TRACTING.—Not later than 180 days after the date of the en-  
14 actment of this Act, the Administrator for Federal Procure-  
15 ment Policy shall establish a center of excellence in contracting  
16 for services. The center of excellence shall assist the acquisition  
17 community by identifying, and serving as a clearinghouse for,  
18 best practices in contracting for services in the public and pri-  
19 vate sectors.

20 (c) REPEAL OF SUPERSEDED PROVISION.—Subsection (b)  
21 of section 821 of the Floyd D. Spence National Defense Au-  
22 thorization Act for Fiscal Year 2001 (as enacted into law by  
23 Public Law 106–398; 114 Stat. 1654A–218; 10 U.S.C. 2302  
24 note) is repealed.

25 (d) CLERICAL AND TECHNICAL AMENDMENTS.—(1) The  
26 table of contents in section 1(b) of such Act is amended by  
27 striking the last item and inserting the following:

“Sec. 40. Protection of constitutional rights of contractors.

“Sec. 41. Incentives for efficient performance of services contracts.”.

28 (2) The section before section 41 of such Act (as added  
29 by subsection (a)) is redesignated as section 40.

30 **SEC. 1432. AUTHORIZATION OF ADDITIONAL COMMER-**  
31 **CIAL CONTRACT TYPES.**

32 Section 8002(d) of the Federal Acquisition Streamlining  
33 Act of 1994 (Public Law 103–355; 108 Stat. 3387; 41 U.S.C.  
34 264 note) is amended—



## 14–15

1 (1) by redesignating paragraph (1) as subparagraph  
2 (A) and in that subparagraph by striking “and”;

3 (2) by redesignating paragraph (2) as subparagraph  
4 (B) and in that subparagraph by striking the period at the  
5 end and inserting “; and”;

6 (3) by adding after subparagraph (B) (as so redesign-  
7 dated) the following new subparagraph:

8 “(C) subject to paragraph (2), authority for use of a  
9 time-and-materials contract or a labor-hour contract for the  
10 procurement of commercial services that are commonly sold  
11 to the general public through such contracts and are pur-  
12 chased by the procuring agency on a competitive basis.”;

13 (4) by striking “USE OF FIRM, FIXED PRICE CON-  
14 TRACTS.—The” and inserting “PROVISIONS RELATING TO  
15 TYPES OF CONTRACTS FOR COMMERCIAL ITEMS.—(1)”;  
16 and

17 (5) by adding at the end the following new para-  
18 graphs:

19 “(2) A time-and-materials contract or a labor-hour con-  
20 tract may be used pursuant to the authority referred to in  
21 paragraph (1)(C)—

22 “(A) only for a procurement of commercial services in  
23 a category of commercial services described in paragraph  
24 (3); and—

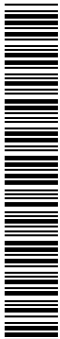
25 “(B) only if the contracting officer for such  
26 procurement—

27 “(i) executes a determination and findings that no  
28 other contract type is suitable;

29 “(ii) includes in the contract a ceiling price that  
30 the contractor exceeds at its own risk; and

31 “(iii) authorizes any subsequent change in the ceil-  
32 ing price only upon a determination, documented in the  
33 contract file, that it is in the best interest of the pro-  
34 curing agency to change such ceiling price.

35 “(3) The categories of commercial services referred to in  
36 paragraph (2) are as follows:



## 14–16

1 “(A) Commercial services procured for support of  
2 a commercial item, as described in section 4(12)(E) of  
3 the Office of Federal Procurement Policy Act (41  
4 U.S.C. 403(12)(E)).

5 “(B) Any other category of commercial services  
6 that is designated by the Administrator for Federal  
7 Procurement Policy in the Federal Acquisition Regula-  
8 tion for the purposes of this paragraph on the basis  
9 that—

10 “(i) the commercial services in such category  
11 are of a type of commercial services that are com-  
12 monly sold to the general public through use of  
13 time-and-materials or labor-hour contracts; and

14 “(ii) it would be in the best interests of the  
15 Federal Government to authorize use of time-and-  
16 materials or labor-hour contracts for purchases of  
17 the commercial services in such category.”.

18 **SEC. 1433. CLARIFICATION OF COMMERCIAL SERVICES**  
19 **DEFINITION.**

20 Section 4 of the Office of Federal Procurement Policy Act  
21 (41 U.S.C. 403) is amended in paragraph (12)(F) by inserting  
22 “or specific outcomes to be achieved” after “performed”.

23 **Subtitle D—Other Matters**

24 **SEC. 1441. AUTHORITY TO ENTER INTO CERTAIN TRANS-**  
25 **ACTIONS FOR DEFENSE AGAINST OR RECOV-**  
26 **ERY FROM TERRORISM OR NUCLEAR, BIO-**  
27 **LOGICAL, CHEMICAL, OR RADIOLOGICAL AT-**  
28 **TACK.**

29 (a) AUTHORITY.—

30 (1) IN GENERAL.—The head of an executive agency  
31 who engages in basic research, applied research, advanced  
32 research, and development projects that—

33 (A) are necessary to the responsibilities of such of-  
34 ficial’s executive agency in the field of research and de-  
35 velopment, and

36 (B) have the potential to facilitate defense against  
37 or recovery from terrorism or nuclear, biological, chem-  
38 ical, or radiological attack,





1 may exercise the same authority (subject to the same re-  
2 strictions and conditions) with respect to such research and  
3 projects as the Secretary of Defense may exercise under  
4 section 2371 of title 10, United States Code, except for  
5 subsections (b) and (f) of such section 2371.

6 (2) PROTOTYPE PROJECTS.—The head of an executive  
7 agency may, under the authority of paragraph (1), carry  
8 out prototype projects that meet the requirements of sub-  
9 paragraphs (A) and (B) of paragraph (1) in accordance  
10 with the requirements and conditions provided for carrying  
11 out prototype projects under section 845 of the National  
12 Defense Authorization Act for Fiscal Year 1994 (Public  
13 Law 103–160; 10 U.S.C. 2371 note), including that, to the  
14 maximum extent practicable, competitive procedures shall  
15 be used when entering into agreements to carry out  
16 projects under subsection (a) of that section and that the  
17 period of authority to carry out projects under such sub-  
18 section (a) terminates as provided in subsection (g) of that  
19 section.

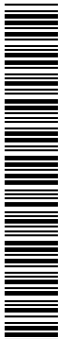
20 (3) APPLICATION OF REQUIREMENTS AND CONDI-  
21 TIONS.—In applying the requirements and conditions of  
22 section 845 of the National Defense Authorization Act for  
23 Fiscal Year 1994 under this subsection—

24 (A) subsection (c) of that section shall apply with  
25 respect to prototype projects carried out under this  
26 paragraph; and

27 (B) the Director of the Office of Management and  
28 Budget shall perform the functions of the Secretary of  
29 Defense under subsection (d) of that section.

30 (4) APPLICABILITY TO SELECTED EXECUTIVE AGEN-  
31 CIES.—

32 (A) OMB AUTHORIZATION REQUIRED.—The head  
33 of an executive agency may exercise authority under  
34 this subsection for a project only if authorized by the  
35 Director of the Office of Management and Budget to  
36 use the authority for such project.



1 (B) RELATIONSHIP TO AUTHORITY OF DEPART-  
2 MENT OF HOMELAND SECURITY.—The authority under  
3 this subsection shall not apply to the Secretary of  
4 Homeland Security while section 831 of the Homeland  
5 Security Act of 2002 (Public Law 107–296; 116 Stat.  
6 2224) is in effect.

7 (b) ANNUAL REPORT.—The annual report of the head of  
8 an executive agency that is required under subsection (h) of  
9 section 2371 of title 10, United States Code, as applied to the  
10 head of the executive agency by subsection (a), shall be sub-  
11 mitted to the Committee on Governmental Affairs of the Senate  
12 and the Committee on Government Reform of the House of  
13 Representatives.

14 (c) REGULATIONS.—The Director of the Office of Manage-  
15 ment and Budget shall prescribe regulations to carry out this  
16 section. No transaction may be conducted under the authority  
17 of this section before the date on which such regulations take  
18 effect.

19 (d) TERMINATION OF AUTHORITY.—The authority to  
20 carry out transactions under subsection (a) shall terminate on  
21 September 30, 2008.

22 **SEC. 1442. PUBLIC DISCLOSURE OF NONCOMPETITIVE**  
23 **CONTRACTING FOR THE RECONSTRUCTION**  
24 **OF INFRASTRUCTURE IN IRAQ.**

25 (a) DISCLOSURE REQUIRED.—

26 (1) PUBLICATION AND PUBLIC AVAILABILITY.—The  
27 head of an executive agency of the United States that en-  
28 ters into a contract for the repair, maintenance, or con-  
29 struction of infrastructure in Iraq without full and open  
30 competition shall publish in the Federal Register or Com-  
31 merce Business Daily and otherwise make available to the  
32 public, not later than 30 days after the date on which the  
33 contract is entered into, the following information:

34 (A) The amount of the contract.

35 (B) A brief description of the scope of the con-  
36 tract.



(C) A discussion of how the executive agency identified, and solicited offers from, potential contractors to perform the contract, together with a list of the potential contractors that were issued solicitations for the offers.

(D) The justification and approval documents on which was based the determination to use procedures other than procedures that provide for full and open competition.

(2) INAPPLICABILITY TO CONTRACTS AFTER FISCAL YEAR 2005.—Paragraph (1) does not apply to a contract entered into after September 30, 2005.

(b) CLASSIFIED INFORMATION.—

(1) AUTHORITY TO WITHHOLD.—The head of an executive agency may—

(A) withhold from publication and disclosure under subsection (a) any document that is classified for restricted access in accordance with an Executive order in the interest of national defense or foreign policy; and

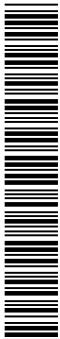
(B) redact any part so classified that is in a document not so classified before publication and disclosure of the document under subsection (a).

(2) AVAILABILITY TO CONGRESS.—In any case in which the head of an executive agency withholds information under paragraph (1), the head of such executive agency shall make available an unredacted version of the document containing that information to the chairman and ranking member of each of the following committees of Congress:

(A) The Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(B) The Committees on Appropriations of the Senate and House of Representatives.

(C) Each committee that the head of the executive agency determines has legislative jurisdiction for the



1 operations of such department or agency to which the  
2 information relates.

3 (c) FISCAL YEAR 2003 CONTRACTS.—This section shall  
4 apply to contracts entered into on or after October 1, 2002, ex-  
5 cept that, in the case of a contract entered into before the date  
6 of the enactment of this Act, subsection (a) shall be applied as  
7 if the contract had been entered into on the date of the enact-  
8 ment of this Act.

9 (d) RELATIONSHIP TO OTHER DISCLOSURE LAWS.—Noth-  
10 ing in this section shall be construed as affecting obligations  
11 to disclose United States Government information under any  
12 other provision of law.

13 (e) DEFINITIONS.—In this section, the terms “executive  
14 agency” and “full and open competition” have the meanings  
15 given such terms in section 4 of the Office of Federal Procure-  
16 ment Policy Act (41 U.S.C. 403).

17 **SEC. 1443. SPECIAL EMERGENCY PROCUREMENT AU-**  
18 **THORITY.**

19 (a) PERMANENT AUTHORITY.—(1) The Office of Federal  
20 Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by  
21 inserting after section 32 the following new section:

22 **“SEC. 32A. SPECIAL EMERGENCY PROCUREMENT AU-**  
23 **THORITY.**

24 “(a) APPLICABILITY.—The authorities provided in this  
25 section apply with respect to any procurement of property or  
26 services by or for an executive agency that, as determined by  
27 the head of such executive agency, are to be used—

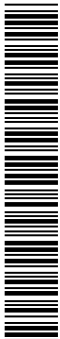
28 “(1) in support of a contingency operation; or

29 “(2) to facilitate the defense against or recovery from  
30 nuclear, biological, chemical, or radiological attack against  
31 the United States.

32 “(b) INCREASED THRESHOLDS.—For a procurement to  
33 which this section applies under subsection (a)—

34 “(1) the amount specified in subsections (c), (d), and  
35 (f) of section 32 shall be deemed to be \$15,000; and

36 “(2) the term ‘simplified acquisition threshold’  
37 means—



1 “(A) \$250,000 in the case of any contract to be  
2 awarded and performed, or purchase to be made, inside  
3 the United States; and

4 “(B) \$500,000 in the case of any contract to be  
5 awarded and performed, or purchase to be made, out-  
6 side the United States.

7 “(c) INCREASED LIMITATION ON USE OF SIMPLIFIED AC-  
8 QUISSION PROCEDURES.—For a procurement to which this  
9 section applies under subsection (a), the \$5,000,000 limitation  
10 in the following provisions of law shall be deemed to be  
11 \$10,000,000:

12 “(1) Section 31(a)(2) of this Act.

13 “(2) Section 2304(g)(1)(B) of title 10, United States  
14 Code.

15 “(3) Section 303(g)(1)(B) of the Federal Property and  
16 Administrative Services Act of 1949 (41 U.S.C.  
17 253(g)(1)(B)).

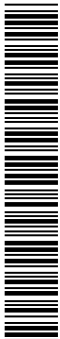
18 “(d) COMMERCIAL ITEMS AUTHORITY.—(1) The head of  
19 an executive agency carrying out a procurement of property or  
20 a service to which this section applies under subsection (a)(2)  
21 may treat such property or service as a commercial item for the  
22 purpose of carrying out such procurement.

23 “(2) A contract in an amount greater than \$15,000,000  
24 that is awarded on a sole source basis for an item or service  
25 treated as a commercial item under paragraph (1) shall not be  
26 exempt from—

27 “(A) cost accounting standards promulgated pursuant  
28 to section 26 of this Act; or

29 “(B) cost or pricing data requirements (commonly re-  
30 ferred to as truth in negotiating) under section 2306a of  
31 title 10, United States Code, and section 304A of title III  
32 of the Federal Property and Administrative Services Act of  
33 1949 (41 U.S.C. 254b).

34 “(e) CONTINGENCY OPERATION DEFINED.—In this sec-  
35 tion, the term ‘contingency operation’ has the meaning given  
36 such term in section 101(a)(13) of title 10, United States  
37 Code.”.



## 14–22

1           (2) The table of contents in section 1(b) of such Act is  
2 amended by inserting after the item relating to section 32 the  
3 following new item:

“Sec. 32A. Special emergency procurement authority.”.

4           (b) CONTINUATION OF AUTHORITY FOR USE OF SIM-  
5 PLIFIED ACQUISITION PROCEDURES.—Section 4202(e) of the  
6 Clinger-Cohen Act (division D of Public Law 104–106; 110  
7 Stat. 652; 10 U.S.C. 2304 note) is amended by striking “Janu-  
8 ary 1, 2004” and inserting “January 1, 2006”.



15—

15—

15—

## **TITLE XV—VETERANS' DISABILITY BENEFITS COMMISSION**

Sec. 1501. Establishment of commission.

Sec. 1502. Duties of the commission.

Sec. 1503. Report.

Sec. 1504. Powers of the commission.

Sec. 1505. Personnel matters.

Sec. 1506. Termination of commission.

Sec. 1507. Funding.

### **SEC. 1501. ESTABLISHMENT OF COMMISSION.**

(a) ESTABLISHMENT OF COMMISSION.—There is hereby established a commission to be known as the Veterans' Disability Benefits Commission (hereinafter in this title referred to as the "commission").

(b) MEMBERSHIP.—(1) The commission shall be composed of 13 members, appointed as follows:

(A) Two members appointed by the Speaker of the House of Representatives, at least one of whom shall be a veteran who was awarded a decoration specified in paragraph (2).

(B) Two members appointed by the minority leader of the House of Representatives, at least one of whom shall be a veteran who was awarded a decoration specified in paragraph (2).

(C) Two members appointed by the majority leader of the Senate, at least one of whom shall be a veteran who was awarded a decoration specified in paragraph (2).

(D) Two members appointed by the minority leader of the Senate, at least one of whom shall be a veteran who was awarded a decoration specified in paragraph (2).

(E) Five members appointed by the President, at least three of whom shall be veterans who were awarded a decoration specified in paragraph (2).

(2) A decoration specified in this paragraph is any of the following:



1 (A) The Medal of Honor.

2 (B) The Distinguished Service Cross, the Navy Cross,  
3 or the Air Force Cross.

4 (C) The Silver Star.

5 (3) A vacancy in the Commission shall be filled in the  
6 manner in which the original appointment was made.

7 (4) The appointment of members of the commission under  
8 this subsection shall be made not later than 60 days after the  
9 date of the enactment of this Act.

10 (c) PERIOD OF APPOINTMENT.—Members of the commis-  
11 sion shall be appointed for the life of the commission. A va-  
12 cancy in the commission shall not affect its powers.

13 (d) INITIAL MEETING.—The commission shall hold its  
14 first meeting not later than 30 days after the date on which  
15 a majority of the members of the commission have been ap-  
16 pointed.

17 (e) MEETINGS.—The commission shall meet at the call of  
18 the chairman.

19 (f) QUORUM.—A majority of the members of the commis-  
20 sion shall constitute a quorum, but a lesser number may hold  
21 hearings.

22 (g) CHAIRMAN.—The President shall designate a member  
23 of the commission to be chairman of the commission.

24 **SEC. 1502. DUTIES OF THE COMMISSION.**

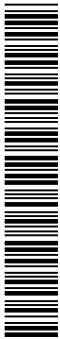
25 (a) STUDY.—The commission shall carry out a study of  
26 the benefits under the laws of the United States that are pro-  
27 vided to compensate and assist veterans and their survivors for  
28 disabilities and deaths attributable to military service.

29 (b) SCOPE OF STUDY.—In carrying out the study, the  
30 commission shall examine and make recommendations con-  
31 cerning the following:

32 (1) The appropriateness of such benefits under the  
33 laws in effect on the date of the enactment of this Act.

34 (2) The appropriateness of the level of such benefits.

35 (3) The appropriate standard or standards for deter-  
36 mining whether a disability or death of a veteran should be  
37 compensated.





(c) CONTENTS OF STUDY.—The study to be carried out by the commission under this section shall be a comprehensive evaluation and assessment of the benefits provided under the laws of the United States to compensate veterans and their survivors for disability or death attributable to military service, together with any related issues that the commission determines are relevant to the purposes of the study. The study shall include an evaluation and assessment of the following:

(1) The laws and regulations which determine eligibility for disability and death benefits, and other assistance for veterans and their survivors.

(2) The rates of such compensation, including the appropriateness of a schedule for rating disabilities based on average impairment of earning capacity.

(3) Comparable disability benefits provided to individuals by the Federal Government, State governments, and the private sector.

(d) CONSULTATION WITH INSTITUTE OF MEDICINE.—In carrying out the study under this section, the commission shall consult with the Institute of Medicine of the National Academy of Sciences with respect to the medical aspects of contemporary disability compensation policies.

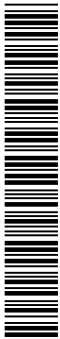
#### **SEC. 1503. REPORT.**

Not later than 15 months after the date on which the commission first meets, the commission shall submit to the President and Congress a report on the study. The report shall include the following:

(1) The findings and conclusions of the commission, including its findings and conclusions with respect to the matters referred to in section 1502(c).

(2) The recommendations of the commission for revising the benefits provided by the United States to veterans and their survivors for disability and death attributable to military service.

(3) Other information and recommendations with respect to such benefits as the commission considers appropriate.



1     **SEC. 1504. POWERS OF THE COMMISSION.**

2           (a) HEARINGS.—The commission may hold such hearings,  
3 sit and act at such times and places, take such testimony, and  
4 receive such evidence as the commission considers advisable to  
5 carry out the purposes of this title.

6           (b) INFORMATION FROM FEDERAL AGENCIES.—In addi-  
7 tion to the information referred to in section 1502(c), the com-  
8 mission may secure directly from any Federal department or  
9 agency such information as the commission considers necessary  
10 to carry out the provisions of this title. Upon request of the  
11 chairman of the commission, the head of such department or  
12 agency shall furnish such information to the commission.

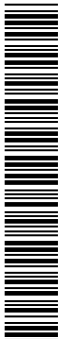
13          (c) POSTAL SERVICES.—The commission may use the  
14 United States mails in the same manner and under the same  
15 conditions as other departments and agencies of the Federal  
16 Government.

17          (d) GIFTS.—The commission may accept, use, and dispose  
18 of gifts or donations of services or property.

19     **SEC. 1505. PERSONNEL MATTERS.**

20          (a) COMPENSATION OF MEMBERS.—Each member of the  
21 commission who is not an officer or employee of the United  
22 States shall be compensated at a rate equal to the daily equiva-  
23 lent of the annual rate of basic pay prescribed for level IV of  
24 the Executive Schedule under section 5315 of title 5, United  
25 States Code, for each day (including travel time) during which  
26 the member is engaged in the performance of the duties of the  
27 commission. All members of the commission who are officers or  
28 employees of the United States shall serve without compensa-  
29 tion in addition to that received for their services as officers  
30 or employees of the United States.

31          (b) TRAVEL EXPENSES.—The members of the commission  
32 shall be allowed travel expenses, including per diem in lieu of  
33 subsistence, at rates authorized for employees of agencies under  
34 subchapter I of chapter 57 of title 5, United States Code, while  
35 away from their homes or regular places of business in the per-  
36 formance of services for the commission.



1 (c) STAFF.—(1) The chairman of the commission may,  
2 without regard to the civil service laws and regulations, appoint  
3 an executive director and such other personnel as may be nec-  
4 essary to enable the commission to perform its duties. The ap-  
5 pointment of an executive director shall be subject to approval  
6 by the commission.

7 (2) The chairman of the commission may fix the com-  
8 pensation of the executive director and other personnel without  
9 regard to the provisions of chapter 51 and subchapter III of  
10 chapter 53 of title 5, United States Code, relating to classifica-  
11 tion of positions and General Schedule pay rates, except that  
12 the rate of pay for the executive director and other personnel  
13 may not exceed the rate payable for level V of the Executive  
14 Schedule under section 5316 of such title.

15 (d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon re-  
16 quest of the chairman of the commission, the head of any Fed-  
17 eral department or agency may detail, on a nonreimbursable  
18 basis, any personnel of that department or agency to the com-  
19 mission to assist it in carrying out its duties.

20 (e) PROCUREMENT OF TEMPORARY AND INTERMITTENT  
21 SERVICES.—The chairman of the commission may procure tem-  
22 porary and intermittent services under section 3109(b) of title  
23 5, United States Code, at rates for individuals which do not ex-  
24 ceed the daily equivalent of the annual rate of basic pay pre-  
25 scribed for level V of the Executive Schedule under section  
26 5316 of such title.

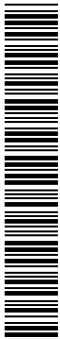
27 **SEC. 1506. TERMINATION OF COMMISSION.**

28 The commission shall terminate 60 days after the date on  
29 which the commission submits its report under section 1503.

30 **SEC. 1507. FUNDING.**

31 (a) IN GENERAL.—The Secretary of Veterans Affairs  
32 shall, upon the request of the chairman of the commission,  
33 make available to the commission such amounts as the commis-  
34 sion may require to carry out its duties under this title.

35 (b) AVAILABILITY.—Any sums made available to the com-  
36 mission under subsection (a) shall remain available, without fis-  
37 cal year limitation, until the termination of the commission.





1     **TITLE XVI—DEFENSE BIOMEDICAL**  
2     **COUNTERMEASURES**

Sec. 1601. Research and development of defense biomedical countermeasures.

Sec. 1602. Procurement of defense biomedical countermeasures.

Sec. 1603. Authorization for medical products for use in emergencies.

3     **SEC. 1601. RESEARCH AND DEVELOPMENT OF DEFENSE**  
4     **BIOMEDICAL COUNTERMEASURES.**

5           (a) IN GENERAL.—The Secretary of Defense (in this section referred to as the “Secretary”) shall carry out a program to accelerate the research, development and procurement of biomedical countermeasures, including but not limited to therapeutics and vaccines, for the protection of the Armed Forces from attack by one or more biological, chemical, radiological, or nuclear agents.

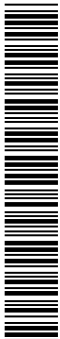
12          (b) INTERAGENCY COOPERATION.—(1) In carrying out the program under subsection (a), the Secretary may enter into interagency agreements and other collaborative undertakings with other Federal agencies.

16          (2) The Secretary, through regular, structured, and close consultation with the Secretary of Health and Human Services and the Secretary of Homeland Security, shall ensure that the activities of the Department of Defense in carrying out the program are coordinated with, complement, and do not unnecessarily duplicate activities of the Department of Health and Human Services or the Department of Homeland Security.

23          (c) EXPEDITED PROCUREMENT AUTHORITY.—(1) For any procurement of property or services for use (as determined by the Secretary) in performing, administering, or supporting biomedical countermeasures research and development, the Secretary may, when appropriate, use streamlined acquisition procedures and other expedited procurement procedures authorized in—

30           (A) section 32A of the Office of Federal Procurement Policy Act, as added by section 1443 of this Act; and

32           (B) section 2371 of title 10, United States Code, and  
33           section 845 of the National Defense Authorization Act for



1 Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 2371  
2 note).

3 (2) Notwithstanding paragraph (1) and the provisions of  
4 law referred to in such paragraph, each of the following provi-  
5 sions shall apply to the procurements described in this sub-  
6 section to the same extent that such provisions would apply to  
7 such procurements in the absence of paragraph (1) :

8 (A) Chapter 37 of title 40, United States Code (relat-  
9 ing to contract work hours and safety standards).

10 (B) Subsections (a) and (b) of section 7 of the Anti-  
11 Kickback Act of 1986 (41 U.S.C. 57(a) and (b)).

12 (C) Section 2313 of title 10, United States Code (re-  
13 lating to the examination of contractor records).

14 (3) The Secretary shall institute appropriate internal con-  
15 trols for use of the authority under paragraph (1), including  
16 requirements for documenting the justification for each use of  
17 such authority.

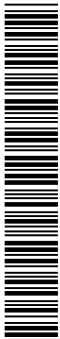
18 (d) DEPARTMENT OF DEFENSE FACILITIES AUTHOR-  
19 ITY.—(1) If the Secretary determines that it is necessary to ac-  
20 quire, lease, construct, or improve laboratories, research facili-  
21 ties, and other real property of the Department of Defense in  
22 order to carry out the program under this section, the Sec-  
23 retary may do so using the procedures set forth in paragraphs  
24 (2), (3), (4), and (5).

25 (2) The Secretary shall use existing construction authori-  
26 ties provided by subchapter I of chapter 169 of title 10, United  
27 States Code to the maximum extent possible.

28 (3)(A) If the Secretary determines that use of authorities  
29 in paragraph (2) would prevent the Department from meeting  
30 a specific facility requirement for the program, the Secretary  
31 shall submit to the congressional defense committees advance  
32 notification, which shall include the following:

33 (i) Certification by the Secretary that use of existing  
34 construction authorities would prevent the Department  
35 from meeting the specific facility requirement.

36 (ii) A detailed explanation of the reasons why existing  
37 authorities cannot be used.



- 1 (iii) A justification of the facility requirement.
- 2 (iv) Construction project data and estimated cost.
- 3 (v) Identification of the source or sources of the funds
- 4 proposed to be expended.

5 (B) The facility project may be carried out only after the  
6 end of the 21-day period beginning on the date the notification  
7 is received by the congressional defense committees.

8 (4) If the Secretary determines (A) that the facility is vital  
9 to national security or to the protection of health, safety, or the  
10 quality of the environment, and (B) the requirement for the fa-  
11 cility is so urgent that the advance notification in paragraph  
12 (3) and the subsequent 21-day deferral of the facility project  
13 would threaten the life, health, or safety of personnel, or would  
14 otherwise jeopardize national security, the Secretary may obli-  
15 gate funds for the facility and notify the congressional defense  
16 committees within seven days after the date on which appro-  
17 priated funds are obligated with the information required in  
18 paragraph (3).

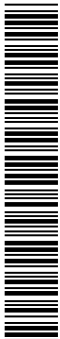
19 (5) The Secretary shall submit to the congressional de-  
20 fense committees a quarterly report detailing any use of the au-  
21 thority provided by paragraph (4), including costs incurred or  
22 to be incurred by the United States as a result of the use of  
23 the authority.

24 (6) Nothing in this section shall be construed to authorize  
25 the Secretary to acquire, construct, lease, or improve a facility  
26 having general utility beyond the specific purposes of the pro-  
27 gram.

28 (7) In this subsection, the term “facility” has the meaning  
29 given the term in section 2801(c) of title 10, United States  
30 Code.

31 (e) **AUTHORITY FOR PERSONAL SERVICES CONTRACTS.—**

32 (1) Subject to paragraph (2), the authority provided by section  
33 1091 of title 10, United States Code, for personal services con-  
34 tracts to carry out health care responsibilities in medical treat-  
35 ment facilities of the Department of Defense shall also be avail-  
36 able, subject to the same terms and conditions, for personal  
37 services contracts to carry out research and development activi-



ties under this section. The number of individuals whose personal services are obtained under this subsection may not exceed 30 at any time.

(2) The authority provided by such section 1091 may not be used for a personal services contract unless the contracting officer for the contract ensures that—

(A) the services to be procured are urgent or unique; and

(B) it would not be practicable for the Department of Defense to obtain such services by other measures.

(f) STREAMLINED PERSONNEL AUTHORITY.—(1) The Secretary may appoint highly qualified experts, including scientific and technical personnel, to carry out research and development under this section in accordance with the authorities provided in section 342 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2721), section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261), and section 1101 of this Act.

(2) The Secretary may use the authority under paragraph (1) only upon a determination by the Secretary that use of such authority is necessary to accelerate the research and development under the program.

(3) The Secretary shall institute appropriate internal controls for each use of the authority under paragraph (1).

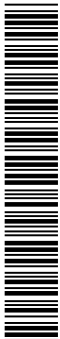
#### **SEC. 1602. PROCUREMENT OF DEFENSE BIOMEDICAL COUNTERMEASURES.**

(a) DETERMINATION OF MATERIAL THREATS.—(1) The Secretary of Defense (in this section referred to as the “Secretary”) shall on an ongoing basis—

(A) assess current and emerging threats of use of biological, chemical, radiological, and nuclear agents; and

(B) identify, on the basis of such assessment, those agents that present a material risk of use against the Armed Forces.

(2) The Secretary shall on an ongoing basis—





1 (A) assess the potential consequences to the health of  
2 members of the Armed Forces of use against the Armed  
3 Forces of the agents identified under paragraph (1)(B);  
4 and

5 (B) identify, on the basis of such assessment, those  
6 agents for which countermeasures are necessary to protect  
7 the health of members of the Armed Forces.

8 (b) ASSESSMENT OF AVAILABILITY AND APPROPRIATE-  
9 NESS OF COUNTERMEASURES.—The Secretary shall on an on-  
10 going basis assess the availability and appropriateness of spe-  
11 cific countermeasures to address specific threats identified  
12 under subsection (a).

13 (c) SECRETARY'S DETERMINATION OF COUNTER-  
14 MEASURES APPROPRIATE FOR PROCUREMENT.—(1) The Sec-  
15 retary, in accordance with paragraph (2), shall on an ongoing  
16 basis identify specific countermeasures that the Secretary de-  
17 termines to be appropriate for procurement for the Department  
18 of Defense stockpile of biomedical countermeasures.

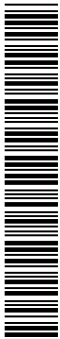
19 (2) The Secretary may not identify a specific counter-  
20 measure under paragraph (1) unless the Secretary determines  
21 that—

22 (A) the countermeasure is a qualified countermeasure;  
23 and

24 (B) it is reasonable to expect that producing and deliv-  
25 ering, within 5 years, the quantity of that countermeasure  
26 required to meet the needs of the Department (as deter-  
27 mined by the Secretary) is feasible.

28 (d) INTERAGENCY COOPERATION.—(1) Activities of the  
29 Secretary under this section shall be carried out in regular,  
30 structured, and close consultation and coordination with the  
31 Secretaries of Homeland Security and Health and Human  
32 Services, including the activities described in subsections (a),  
33 (b), and (c) and those activities with respect to interagency  
34 agreements described in paragraph (2).

35 (2) The Secretary may enter into an interagency agree-  
36 ment with the Secretaries of Homeland Security and Health  
37 and Human Services to provide for acquisition by the Secretary



1 of Defense for use by the Armed Forces of biomedical counter-  
2 measures procured for the Strategic National Stockpile by the  
3 Secretary of Health and Human Services. The Secretary may  
4 transfer such funds to the Secretary of Health and Human  
5 Services as are necessary to carry out such agreements (includ-  
6 ing administrative costs of the Secretary of Health and Human  
7 Services), and the Secretary of Health and Human Services  
8 may expend any such transferred funds to procure such coun-  
9 termeasures for use by the Armed Forces, or to replenish the  
10 stockpile. The Secretaries are authorized to establish such  
11 terms and conditions for such agreements as the Secretaries  
12 determine to be in the public interest. The transfer authority  
13 provided under this paragraph is in addition to any other  
14 transfer authority available to the Secretary.

15 (e) DEFINITIONS.—In this section:

16 (1) The term “qualified countermeasure” means a bio-  
17 medical countermeasure—

18 (A) that is approved under section 505(a) of the  
19 Federal Food, Drug, and Cosmetic Act (21 U.S.C.  
20 355) or licensed under section 351 of the Public Health  
21 Service Act (42 U.S.C. 262), or that is approved under  
22 section 515 or cleared under section 510(k) of the Fed-  
23 eral Food, Drug, and Cosmetic Act (21 U.S.C. 360e  
24 and 360) for use as such a countermeasure to a bio-  
25 logical, chemical, radiological, or nuclear agent identi-  
26 fied as a material threat under subsection (a); or

27 (B) with respect to which the Secretary of Health  
28 and Human Services makes a determination that suffi-  
29 cient and satisfactory clinical experience or research  
30 data (including data, if available, from preclinical and  
31 clinical trials) exists to support a reasonable conclusion  
32 that the product will qualify for such approval or li-  
33 censing for use as such a countermeasure.

34 (2) The term “biomedical countermeasure” means a  
35 drug (as defined in section 201(g)(1) of the Federal Food,  
36 Drug, and Cosmetic Act (21 U.S.C. 321(g)(1))), device (as  
37 defined in section 201(h) of the Federal Food, Drug, and



1 Cosmetic Act (21 U.S.C. 321(h))), or biological product (as  
2 defined in section 351(i) of the Public Health Service Act  
3 (42 U.S.C. 262(i)) that is—

4 (A) used to treat, identify, or prevent harm from  
5 any biological, chemical, radiological, or nuclear agent  
6 that may cause a military health emergency affecting  
7 the Armed Forces; or

8 (B) used to treat, identify, or prevent harm from  
9 a condition that may result in adverse health con-  
10 sequences or death and may be caused by admin-  
11 istering a drug or biological product that is used as de-  
12 scribed in subparagraph (A).

13 (3) The term “Strategic National Stockpile” means  
14 the stockpile established under section 121(a) of the Public  
15 Health and Bioterrorism Preparedness and Response Act  
16 of 2002 (42 U.S.C. 300hh–12(a)).

17 (f) FUNDING.—Of the amount authorized to be appro-  
18 priated for the Department of Defense and available within the  
19 transfer authority established under section 1001 of this Act  
20 for fiscal year 2004 and for each fiscal year thereafter, such  
21 sums are authorized as may be necessary for the costs incurred  
22 by the Secretary in the procurement of countermeasures under  
23 this section.

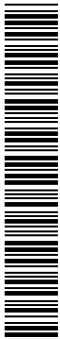
24 **SEC. 1603. AUTHORIZATION FOR MEDICAL PRODUCTS**  
25 **FOR USE IN EMERGENCIES.**

26 (a) IN GENERAL.—Subchapter E of chapter V of the Fed-  
27 eral Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb et seq.)  
28 is amended by adding at the end the following section:

29 **“SEC. 564. AUTHORIZATION FOR MEDICAL PRODUCTS**  
30 **FOR USE IN EMERGENCIES.**

31 “(a) IN GENERAL.—

32 “(1) EMERGENCY USES.—Notwithstanding sections  
33 505, 510(k), and 515 of this Act and section 351 of the  
34 Public Health Service Act, and subject to the provisions of  
35 this section, the Secretary may authorize the introduction  
36 into interstate commerce, during the effective period of a  
37 declaration under subsection (b), of a drug, device, or bio-



logical product intended for use in an actual or potential emergency (referred to in this section as an ‘emergency use’).

“(2) APPROVAL STATUS OF PRODUCT.—An authorization under paragraph (1) may authorize an emergency use of a product that—

“(A) is not approved, licensed, or cleared for commercial distribution under a provision of law referred to in such paragraph (referred to in this section as an ‘unapproved product’); or

“(B) is approved, licensed, or cleared under such a provision, but which use is not under such provision an approved, licensed, or cleared use of the product (referred to in this section as an ‘unapproved use of an approved product’).

“(3) RELATION TO OTHER USES.—An emergency use authorized under paragraph (1) for a product is in addition to any other use that is authorized for the product under a provision of law referred to in such paragraph.

“(4) DEFINITIONS.—For purposes of this section:

“(A) The term ‘biological product’ has the meaning given such term in section 351 of the Public Health Service Act.

“(B) The term ‘emergency use’ has the meaning indicated for such term in paragraph (1).

“(C) The term ‘product’ means a drug, device, or biological product.

“(D) The term ‘unapproved product’ has the meaning indicated for such term in paragraph (2)(A).

“(E) The term ‘unapproved use of an approved product’ has the meaning indicated for such term in paragraph (2)(B).

“(b) DECLARATION OF EMERGENCY.—

“(1) IN GENERAL.—The Secretary may declare an emergency justifying the authorization under this subsection for a product on the basis of a determination by the Secretary of Defense that there is a military emergency, or



1 a significant potential for a military emergency, involving  
2 a heightened risk to United States military forces of attack  
3 with a specified biological, chemical, radiological, or nuclear  
4 agent or agents.

5 “(2) TERMINATION OF DECLARATION.—

6 “(A) IN GENERAL.—A declaration under this sub-  
7 section shall terminate upon the earlier of—

8 “(i) a determination by the Secretary, in con-  
9 sultation with the Secretary of Defense, that the  
10 circumstances described in paragraph (1) have  
11 ceased to exist; or

12 “(ii) the expiration of the one-year period be-  
13 ginning on the date on which the declaration is  
14 made.

15 “(B) RENEWAL.—Notwithstanding subparagraph  
16 (A), the Secretary may renew a declaration under this  
17 subsection, and this paragraph shall apply to any such  
18 renewal.

19 “(C) DISPOSITION OF PRODUCT.—If an authoriza-  
20 tion under this section with respect to an unapproved  
21 product ceases to be effective as a result of a termi-  
22 nation under subparagraph (A) of this paragraph, the  
23 Secretary shall consult with the manufacturer of such  
24 product with respect to the appropriate disposition of  
25 the product.

26 “(3) ADVANCE NOTICE OF TERMINATION.—The Sec-  
27 retary shall provide advance notice that a declaration under  
28 this subsection will be terminated. The period of advance  
29 notice shall be a period reasonably determined to provide—

30 “(A) in the case of an unapproved product, a suf-  
31 ficient period for disposition of the product, including  
32 the return of such product (except such quantities of  
33 product as are necessary to provide for continued use  
34 consistent with subsection (f)(2)) to the manufacturer  
35 (in the case of a manufacturer that chooses to have  
36 such product returned); and



“(B) in the case of an unapproved use of an approved product, a sufficient period for the disposition of any labeling, or any information under subsection (e)(2)(B)(ii), as the case may be, that was provided with respect to the emergency use involved.

“(4) PUBLICATION.—The Secretary shall promptly publish in the Federal Register each declaration, determination, advance notice of termination, and renewal under this subsection.

“(c) CRITERIA FOR ISSUANCE OF AUTHORIZATION.—The Secretary may issue an authorization under this section with respect to the emergency use of a product only if, after consultation with the Director of the National Institutes of Health and the Director of the Centers for Disease Control and Prevention (to the extent feasible and appropriate given the circumstances of the emergency involved), the Secretary concludes—

“(1) that an agent specified in a declaration under subsection (b) can cause a serious or life-threatening disease or condition;

“(2) that, based on the totality of scientific evidence available to the Secretary, including data from adequate and well-controlled clinical trials, if available, it is reasonable to believe that—

“(A) the product may be effective in diagnosing, treating, or preventing—

“(i) such disease or condition; or

“(ii) a serious or life-threatening disease or condition caused by a product authorized under this section, approved or cleared under this Act, or licensed under section 351 of the Public Health Service Act, for diagnosing, treating, or preventing such a disease or condition caused by such an agent; and

“(B) the known and potential benefits of the product, when used to diagnose, prevent, or treat such dis-



1 ease or condition, outweigh the known and potential  
2 risks of the product;

3 “(3) that there is no adequate, approved, and available  
4 alternative to the product for diagnosing, preventing, or  
5 treating such disease or condition; and

6 “(4) that such other criteria as the Secretary may by  
7 regulation prescribe are satisfied.

8 “(d) SCOPE OF AUTHORIZATION.—An authorization of a  
9 product under this section shall state—

10 “(1) each disease or condition that the product may be  
11 used to diagnose, prevent, or treat within the scope of the  
12 authorization;

13 “(2) the Secretary’s conclusions, made under sub-  
14 section (c)(2)(B), that the known and potential benefits of  
15 the product, when used to diagnose, prevent, or treat such  
16 disease or condition, outweigh the known and potential  
17 risks of the product; and

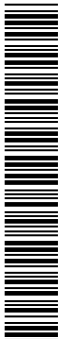
18 “(3) the Secretary’s conclusions, made under sub-  
19 section (c), concerning the safety and potential effective-  
20 ness of the product in diagnosing, preventing, or treating  
21 such diseases or conditions, including an assessment of the  
22 available scientific evidence.

23 “(e) CONDITIONS OF AUTHORIZATION.—

24 “(1) UNAPPROVED PRODUCT.—

25 “(A) REQUIRED CONDITIONS.—With respect to  
26 the emergency use of an unapproved product, the Sec-  
27 retary, to the extent practicable given the cir-  
28 cumstances of the emergency, shall, for a person who  
29 carries out any activity for which the authorization is  
30 issued, establish such conditions on an authorization  
31 under this section as the Secretary finds necessary or  
32 appropriate to protect the public health, including the  
33 following:

34 “(i) Appropriate conditions designed to ensure  
35 that health care professionals administering the  
36 product are informed—



16–12

1 “(I) that the Secretary has authorized the  
2 emergency use of the product;

3 “(II) of the significant known and poten-  
4 tial benefits and risks of the emergency use of  
5 the product, and of the extent to which such  
6 benefits and risks are unknown; and

7 “(III) of the alternatives to the product  
8 that are available, and of their benefits and  
9 risks.

10 “(ii) Appropriate conditions designed to ensure  
11 that individuals to whom the product is adminis-  
12 tered are informed—

13 “(I) that the Secretary has authorized the  
14 emergency use of the product;

15 “(II) of the significant known and poten-  
16 tial benefits and risks of such use, and of the  
17 extent to which such benefits and risks are un-  
18 known; and

19 “(III) of the option to accept or refuse ad-  
20 ministration of the product, of the con-  
21 sequences, if any, of refusing administration of  
22 the product, and of the alternatives to the  
23 product that are available and of their benefits  
24 and risks.

25 “(iii) Appropriate conditions for the moni-  
26 toring and reporting of adverse events associated  
27 with the emergency use of the product.

28 “(iv) For manufacturers of the product, ap-  
29 propriate conditions concerning recordkeeping and  
30 reporting, including records access by the Sec-  
31 retary, with respect to the emergency use of the  
32 product.

33 “(B) AUTHORITY FOR ADDITIONAL CONDITIONS.—  
34 With respect to the emergency use of an unapproved  
35 product, the Secretary may, for a person who carries  
36 out any activity for which the authorization is issued,  
37 establish such conditions on an authorization under





1 this section as the Secretary finds necessary or appro-  
2 priate to protect the public health, including the fol-  
3 lowing:

4 “(i) Appropriate conditions on which entities  
5 may distribute the product with respect to the  
6 emergency use of the product (including limitation  
7 to distribution by government entities), and on how  
8 distribution is to be performed.

9 “(ii) Appropriate conditions on who may ad-  
10 minister the product with respect to the emergency  
11 use of the product, and on the categories of individ-  
12 uals to whom, and the circumstances under which,  
13 the product may be administered with respect to  
14 such use.

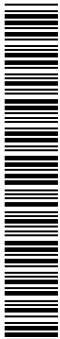
15 “(iii) Appropriate conditions with respect to  
16 the collection and analysis of information, during  
17 the period when the authorization is in effect, con-  
18 cerning the safety and effectiveness of the product  
19 with respect to the emergency use of such product.

20 “(iv) For persons other than manufacturers of  
21 the product, appropriate conditions concerning rec-  
22 ordkeeping and reporting, including records access  
23 by the Secretary, with respect to the emergency use  
24 of the product.

25 “(2) UNAPPROVED USE.—With respect to the emer-  
26 gency use of a product that is an unapproved use of an ap-  
27 proved product:

28 “(A) For a manufacturer of the product who car-  
29 ries out any activity for which the authorization is  
30 issued, the Secretary shall, to the extent practicable  
31 given the circumstances of the emergency, establish  
32 conditions described in clauses (i) and (ii) of paragraph  
33 (1)(A), and may establish conditions described in  
34 clauses (iii) and (iv) of such paragraph.

35 “(B)(i) If the authorization under this section re-  
36 garding the emergency use authorizes a change in the  
37 labeling of the product, but the manufacturer of the



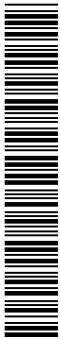
1 product chooses not to make such change, such author-  
2 ization may not authorize distributors of the product or  
3 any other person to alter or obscure the labeling pro-  
4 vided by the manufacturer.

5 “(ii) In the circumstances described in clause (i),  
6 for a person who does not manufacture the product and  
7 who chooses to act under this clause, an authorization  
8 under this section regarding the emergency use shall,  
9 to the extent practicable given the circumstances of the  
10 emergency, authorize such person to provide appro-  
11 priate information with respect to such product in addi-  
12 tion to the labeling provided by the manufacturer, sub-  
13 ject to compliance with clause (i). While the authoriza-  
14 tion under this section is effective, such additional in-  
15 formation shall not be considered labeling for purposes  
16 of section 502.

17 “(C) The Secretary may establish with respect to  
18 the distribution and administration of the product for  
19 the unapproved use conditions no more restrictive than  
20 those established by the Secretary with respect to the  
21 distribution and administration of the product for the  
22 approved use.

23 “(3) GOOD MANUFACTURING PRACTICE.—With respect  
24 to the emergency use of a product for which an authoriza-  
25 tion under this section is issued (whether an unapproved  
26 product or an unapproved use of an approved product), the  
27 Secretary may waive or limit, to the extent appropriate  
28 given the circumstances of the emergency, requirements re-  
29 garding current good manufacturing practice otherwise ap-  
30 plicable to the manufacture, processing, packing, or holding  
31 of products subject to regulation under this Act, including  
32 such requirements established under section 501.

33 “(4) ADVERTISING.—The Secretary may establish con-  
34 ditions on advertisements and other promotional descriptive  
35 printed matter that relate to the emergency use of a prod-  
36 uct for which an authorization under this section is issued



(whether an unapproved product or an unapproved use of an approved product), including, as appropriate—

“(A) with respect to drugs and biological products, requirements applicable to prescription drugs pursuant to section 502(n); or

“(B) with respect to devices, requirements applicable to restricted devices pursuant to section 502(r).

“(f) DURATION OF AUTHORIZATION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), an authorization under this section shall be effective until the earlier of the termination of the declaration under subsection (b) or a revocation under subsection (g).

“(2) CONTINUED USE AFTER END OF EFFECTIVE PERIOD.—Notwithstanding the termination of the declaration under subsection (b) or a revocation under subsection (g), an authorization shall continue to be effective to provide for continued use of an unapproved product with respect to a patient to whom it was administered during the period described by paragraph (1), to the extent found necessary by such patient’s attending physician.

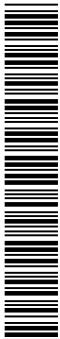
“(g) REVOCATION OF AUTHORIZATION.—

“(1) REVIEW.—The Secretary shall periodically review the circumstances and the appropriateness of an authorization under this section.

“(2) REVOCATION.—The Secretary may revoke an authorization under this section if the criteria under subsection (c) for issuance of such authorization are no longer met or other circumstances make such revocation appropriate to protect the public health or safety.

“(h) PUBLICATION; CONFIDENTIAL INFORMATION.—

“(1) PUBLICATION.—The Secretary shall promptly publish in the Federal Register a notice of each authorization, and each termination or revocation of an authorization under this section, and an explanation of the reasons therefor (which may include a summary of data or information that has been submitted to the Secretary in an application under section 505(i) or section 520(g), even if such



1 summary may indirectly reveal the existence of such appli-  
2 cation).

3 “(2) CONFIDENTIAL INFORMATION.—Nothing in this  
4 section alters or amends section 1905 of title 18, United  
5 States Code, or section 552(b)(4) of title 5 of such Code.

6 “(i) ACTIONS COMMITTED TO AGENCY DISCRETION.—Ac-  
7 tions under the authority of this section by the Secretary or by  
8 the Secretary of Defense are committed to agency discretion.

9 “(j) RULES OF CONSTRUCTION.—The following applies  
10 with respect to this section:

11 “(1) Nothing in this section impairs the authority of  
12 the President as Commander in Chief of the Armed Forces  
13 of the United States under article II, section 2 of the  
14 United States Constitution.

15 “(2) Nothing in this section impairs the authority of  
16 the Secretary of Defense with respect to the Department  
17 of Defense, including the armed forces, under other provi-  
18 sions of Federal law.

19 “(3) Nothing in this section (including any exercise of  
20 authority by a manufacturer under subsection (e)(2)) im-  
21 pairs the authority of the United States to use or manage  
22 quantities of a product that are owned or controlled by the  
23 United States (including quantities in the stockpile main-  
24 tained under section 319F–2 of the Public Health Service  
25 Act).

26 “(k) RELATION TO OTHER PROVISIONS.—If a product is  
27 the subject of an authorization under this section, the use of  
28 such product within the scope of the authorization shall not be  
29 considered to constitute a clinical investigation for purposes of  
30 section 505(i), section 520(g), or any other provision of this  
31 Act or section 351 of the Public Health Service Act.

32 “(l) OPTION TO CARRY OUT AUTHORIZED ACTIVITIES.—  
33 Nothing in this section provides the Secretary any authority to  
34 require any person to carry out any activity that becomes law-  
35 ful pursuant to an authorization under this section, and no per-  
36 son is required to inform the Secretary that the person will not  
37 be carrying out such activity, except that a manufacturer of a



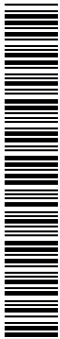
1 sole-source unapproved product authorized for emergency use  
2 shall report to the Secretary within a reasonable period of time  
3 after the issuance by the Secretary of such authorization if  
4 such manufacturer does not intend to carry out any activity  
5 under the authorization. This section only has legal effect on  
6 a person who carries out an activity for which an authorization  
7 under this section is issued. This section does not modify or af-  
8 fect activities carried out pursuant to other provisions of this  
9 Act or section 351 of the Public Health Service Act. Nothing  
10 in this subsection may be construed as restricting the Secretary  
11 from imposing conditions on persons who carry out any activity  
12 pursuant to an authorization under this section.”.

13 (b) EMERGENCY USE PRODUCTS.—(1) Chapter 55 of title  
14 10, United States Code, is amended by inserting after section  
15 1107 the following new section:

16 **“§ 1107a. Emergency use products**

17 “(a) WAIVER BY THE PRESIDENT.—In the case of the ad-  
18 ministration of a product authorized for emergency use under  
19 section 564 of the Federal Food, Drug, and Cosmetic Act to  
20 members of the armed forces, the condition described in section  
21 564(e)(1)(A)(ii)(III) of such Act and required under paragraph  
22 (1)(A) or (2)(A) of such section 564(e), designed to ensure that  
23 individuals are informed of an option to accept or refuse ad-  
24 ministration of a product, may be waived only by the President  
25 only if the President determines, in writing, that complying  
26 with such requirement is not feasible, is contrary to the best  
27 interests of the members affected, or is not in the interests of  
28 national security.

29 “(b) PROVISION OF INFORMATION.—If the President,  
30 under subsection (a), waives the condition described in section  
31 564(e)(1)(A)(ii)(III) of the Federal Food, Drug, and Cosmetic  
32 Act, and if the Secretary of Defense, in consultation with the  
33 Secretary of Health and Human Services, makes a determina-  
34 tion that it is not feasible based on time limitations for the in-  
35 formation described in section 564(e)(1)(A)(ii)(I) or (II) of  
36 such Act and required under paragraph (1)(A) or (2)(A) of  
37 such section 564(e), to be provided to a member of the armed



1 forces prior to the administration of the product, such informa-  
2 tion shall be provided to such member of the armed forces (or  
3 next-of-kin in the case of the death of a member) to whom the  
4 product was administered as soon as possible, but not later  
5 than 30 days, after such administration. The authority pro-  
6 vided for in this subsection may not be delegated. Information  
7 concerning the administration of the product shall be recorded  
8 in the medical record of the member.

9 “(c) APPLICABILITY OF OTHER PROVISIONS.—In the case  
10 of an authorization by the Secretary of Health and Human  
11 Services under section 564(a)(1) of the Federal Food, Drug,  
12 and Cosmetic Act based on a determination by the Secretary  
13 of Defense under section 564(b)(1)(B) of such Act, subsections  
14 (a) through (f) of section 1107 shall not apply to the use of  
15 a product that is the subject of such authorization, within the  
16 scope of such authorization and while such authorization is ef-  
17 fective.”.

18 (2) The table of sections at the beginning of such chapter  
19 is amended by inserting after the item relating to section 1107  
20 the following new item:

“1107a. Emergency use products.”.

21 (c) ENFORCEMENT.—Section 301(d) of the Federal Food,  
22 Drug, and Cosmetic Act (21 U.S.C. 331(d)) is amended by  
23 striking “section 404 or 505” and inserting “section 404, 505,  
24 or 564”. Section 301(e) of such Act is amended by inserting  
25 “564,” after “504,” the first place such term appears, and by  
26 striking “or 519” and inserting “519, or 564”.

27 (d) TERMINATION.—This section shall not be in effect  
28 (and the law shall read as if this section were never enacted)  
29 as of the date on which, following enactment of the Project  
30 Bioshield Act of 2003, the President submits to Congress a no-  
31 tification that the Project Bioshield Act of 2003 provides an ef-  
32 fective emergency use authority with respect to members of the  
33 Armed Forces.



1 **TITLE XVII—NATURALIZATION**  
2 **AND OTHER IMMIGRATION BENE-**  
3 **FITS FOR MILITARY PERSONNEL**  
4 **AND FAMILIES**

Sec. 1701. Requirements for naturalization through service in the Armed Forces of the United States.

Sec. 1702. Naturalization benefits for members of the Selected Reserve of the Ready Reserve.

Sec. 1703. Extension of posthumous benefits to surviving spouses, children, and parents.

Sec. 1704. Expedited process for granting posthumous citizenship to members of the Armed Forces.

Sec. 1705. Effective date.

5 **SEC. 1701. REQUIREMENTS FOR NATURALIZATION**  
6 **THROUGH SERVICE IN THE ARMED FORCES**  
7 **OF THE UNITED STATES.**

8 (a) REDUCTION OF PERIOD FOR REQUIRED SERVICE.—  
9 Section 328(a) of the Immigration and Nationality Act (8  
10 U.S.C. 1439(a)) is amended by striking “three years,” and in-  
11 serting “one year,”.

12 (b) PROHIBITION ON IMPOSITION OF FEES RELATING TO  
13 NATURALIZATION.—Title III of the Immigration and Nation-  
14 ality Act (8 U.S.C. 1401 et seq.) is amended—

15 (1) in section 328(b)—

16 (A) in paragraph (3)—

17 (i) by striking “honorable. The” and inserting  
18 “honorable (the”;

19 (ii) by striking “discharge.” and inserting  
20 “discharge); and”;

21 (B) by adding at the end the following:

22 “(4) notwithstanding any other provision of law, no  
23 fee shall be charged or collected from the applicant for fil-  
24 ing the application, or for the issuance of a certificate of  
25 naturalization upon being granted citizenship, and no clerk  
26 of any State court shall charge or collect any fee for such  
27 services unless the laws of the State require such charge  
28 to be made, in which case nothing more than the portion  
29 of the fee required to be paid to the State shall be charged  
30 or collected.”;



## 17-2

1 (2) in section 329(b)—

2 (A) in paragraph (2), by striking “and” at the  
3 end;

4 (B) in paragraph (3), by striking the period at the  
5 end and inserting “; and”; and

6 (C) by adding at the end the following:

7 “(4) notwithstanding any other provision of law, no  
8 fee shall be charged or collected from the applicant for fil-  
9 ing a petition for naturalization or for the issuance of a  
10 certificate of naturalization upon citizenship being granted  
11 to the applicant, and no clerk of any State court shall  
12 charge or collect any fee for such services unless the laws  
13 of the State require such charge to be made, in which case  
14 nothing more than the portion of the fee required to be  
15 paid to the State shall be charged or collected.”.

16 (c) REVOCATION OF CITIZENSHIP FOR SEPARATION FROM  
17 MILITARY SERVICE UNDER OTHER THAN HONORABLE CONDI-  
18 TIONS.—

19 (1) IN GENERAL.—Title III of the Immigration and  
20 Nationality Act (8 U.S.C. 1401 et seq.) is amended—

21 (A) by adding at the end of section 328 the fol-  
22 lowing:

23 “(f) Citizenship granted pursuant to this section may be  
24 revoked in accordance with section 340 if the person is sepa-  
25 rated from the Armed Forces under other than honorable con-  
26 ditions before the person has served honorably for a period or  
27 periods aggregating five years. Such ground for revocation shall  
28 be in addition to any other provided by law, including the  
29 grounds described in section 340. The fact that the naturalized  
30 person was separated from the service under other than honor-  
31 able conditions shall be proved by a duly authenticated certifi-  
32 cation from the executive department under which the person  
33 was serving at the time of separation. Any period or periods  
34 of service shall be proved by duly authenticated copies of the  
35 records of the executive departments having custody of the  
36 records of such service.”; and

37 (B) by amending section 329(c) to read as follows:





1 “(c) Citizenship granted pursuant to this section may be  
2 revoked in accordance with section 340 if the person is sepa-  
3 rated from the Armed Forces under other than honorable con-  
4 ditions before the person has served honorably for a period or  
5 periods aggregating five years. Such ground for revocation shall  
6 be in addition to any other provided by law, including the  
7 grounds described in section 340. The fact that the naturalized  
8 person was separated from the service under other than honor-  
9 able conditions shall be proved by a duly authenticated certifi-  
10 cation from the executive department under which the person  
11 was serving at the time of separation. Any period or periods  
12 of service shall be proved by duly authenticated copies of the  
13 records of the executive departments having custody of the  
14 records of such service.”.

15 (2) EFFECTIVE DATE.—The amendments made by  
16 paragraph (1) shall apply to citizenship granted on or after  
17 the date of the enactment of this Act.

18 (d) NATURALIZATION PROCEEDINGS OVERSEAS FOR MEM-  
19 BERS OF THE ARMED FORCES.—Notwithstanding any other  
20 provision of law, the Secretary of Homeland Security, the Sec-  
21 retary of State, and the Secretary of Defense shall ensure that  
22 any applications, interviews, filings, oaths, ceremonies, or other  
23 proceedings under title III of the Immigration and Nationality  
24 Act (8 U.S.C. 1401 et seq.) relating to naturalization of mem-  
25 bers of the Armed Forces are available through United States  
26 embassies, consulates, and as practicable, United States mili-  
27 tary installations overseas.

28 (e) FINALIZATION OF NATURALIZATION PROCEEDINGS  
29 FOR MEMBERS OF THE ARMED FORCES.—Not later than 90  
30 days after the date of the enactment of this Act, the Secretary  
31 of Defense shall prescribe a policy that facilitates the oppor-  
32 tunity for a member of the Armed Forces to finalize naturaliza-  
33 tion for which the member has applied. The policy shall in-  
34 clude, for such purpose, the following:

- 35 (1) A high priority for grant of emergency leave.  
36 (2) A high priority for transportation on aircraft of,  
37 or chartered by, the Armed Forces.



(f) TECHNICAL AND CONFORMING AMENDMENT.—Section 328(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1439(b)(3)) is amended by striking “Attorney General” and inserting “Secretary of Homeland Security”.

**SEC. 1702. NATURALIZATION BENEFITS FOR MEMBERS OF THE SELECTED RESERVE OF THE READY RESERVE.**

Section 329(a) of the Immigration and Nationality Act (8 U.S.C. 1440(a)) is amended by inserting “as a member of the Selected Reserve of the Ready Reserve or” after “has served honorably”.

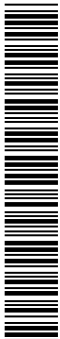
**SEC. 1703. EXTENSION OF POSTHUMOUS BENEFITS TO SURVIVING SPOUSES, CHILDREN, AND PARENTS.**

(a) TREATMENT AS IMMEDIATE RELATIVES.—

(1) SPOUSES.—Notwithstanding the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), in the case of an alien who was the spouse of a citizen of the United States at the time of the citizen’s death and was not legally separated from the citizen at the time of the citizen’s death, if the citizen served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by combat, the alien (and each child of the alien) shall be considered, for purposes of section 201(b) of such Act, to remain an immediate relative after the date of the citizen’s death, but only if the alien files a petition under section 204(a)(1)(A)(ii) of such Act within 2 years after such date and only until the date the alien remarries. For purposes of such section 204(a)(1)(A)(ii), an alien granted relief under the preceding sentence shall be considered an alien spouse described in the second sentence of section 201(b)(2)(A)(i) of such Act.

(2) CHILDREN.—

(A) IN GENERAL.—In the case of an alien who was the child of a citizen of the United States at the time of the citizen’s death, if the citizen served honor-



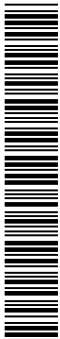
ably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by combat, the alien shall be considered, for purposes of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)), to remain an immediate relative after the date of the citizen's death (regardless of changes in age or marital status thereafter), but only if the alien files a petition under subparagraph (B) within 2 years after such date.

(B) PETITIONS.—An alien described in subparagraph (A) may file a petition with the Secretary of Homeland Security for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of such Act, such a petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).

(3) PARENTS.—

(A) IN GENERAL.—In the case of an alien who was the parent of a citizen of the United States at the time of the citizen's death, if the citizen served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by combat, the alien shall be considered, for purposes of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)), to remain an immediate relative after the date of the citizen's death (regardless of changes in age or marital status thereafter), but only if the alien files a petition under subparagraph (B) within 2 years after such date.

(B) PETITIONS.—An alien described in subparagraph (A) may file a petition with the Secretary of Homeland Security for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of



1 such Act, such a petition shall be considered a petition  
2 filed under section 204(a)(1)(A) of such Act (8 U.S.C.  
3 1154(a)(1)(A)).

4 (C) EXCEPTION.—Notwithstanding section  
5 201(b)(2)(A)(i) of the Immigration and Nationality Act  
6 (8 U.S.C. 1151(b)(2)(A)(i)), for purposes of this para-  
7 graph, a citizen described in subparagraph (A) does not  
8 have to be 21 years of age for a parent to benefit under  
9 this paragraph.

10 (b) APPLICATIONS FOR ADJUSTMENT OF STATUS BY SUR-  
11 VIVING SPOUSES, CHILDREN, AND PARENTS.—

12 (1) IN GENERAL.—Notwithstanding subsections (a)  
13 and (c) of section 245 of the Immigration and Nationality  
14 Act (8 U.S.C. 1255), any alien who was the spouse, child,  
15 or parent of an alien described in paragraph (2), and who  
16 applied for adjustment of status prior to the death de-  
17 scribed in paragraph (2)(B), may have such application ad-  
18 judicated as if such death had not occurred.

19 (2) ALIEN DESCRIBED.—An alien is described in this  
20 paragraph if the alien—

21 (A) served honorably in an active duty status in  
22 the military, air, or naval forces of the United States;

23 (B) died as a result of injury or disease incurred  
24 in or aggravated by combat; and

25 (C) was granted posthumous citizenship under sec-  
26 tion 329A of the Immigration and Nationality Act (8  
27 U.S.C. 1440–1).

28 (c) SPOUSES AND CHILDREN OF LAWFUL PERMANENT  
29 RESIDENT ALIENS.—

30 (1) TREATMENT AS IMMEDIATE RELATIVES.—

31 (A) IN GENERAL.—A spouse or child of an alien  
32 described in paragraph (3) who is included in a petition  
33 for classification as a family-sponsored immigrant  
34 under section 203(a)(2) of the Immigration and Na-  
35 tionality Act (8 U.S.C. 1153(a)(2)) that was filed by  
36 such alien, shall be considered (if the spouse or child  
37 has not been admitted or approved for lawful perma-



1           nent residence by such date) a valid petitioner for im-  
2           mediate relative status under section 201(b)(2)(A)(i) of  
3           the Immigration and Nationality Act (8 U.S.C.  
4           1151(b)(2)(A)(i)). Such spouse or child shall be eligible  
5           for deferred action, advance parole, and work author-  
6           ization.

7           (B) PETITIONS.—An alien spouse or child de-  
8           scribed in subparagraph (A) may file a petition with  
9           the Secretary of Homeland Security for classification of  
10          the alien under section 201(b)(2)(A)(i) of the Immigra-  
11          tion and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)).  
12          For purposes of such Act, such a petition shall be con-  
13          sidered a petition filed under section 204(a)(1)(A) of  
14          such Act (8 U.S.C. 1154(a)(1)(A)).

15          (2) SELF-PETITIONS.—Any spouse or child of an alien  
16          described in paragraph (3) who is not a beneficiary of a pe-  
17          tition for classification as a family-sponsored immigrant  
18          may file a petition for such classification under section  
19          201(b)(2)(A)(i) of the Immigration and Nationality Act (8  
20          U.S.C. 1151(b)(2)(A)(i)) with the Secretary of Homeland  
21          Security, but only if the spouse or child files a petition  
22          within 2 years after such date. Such spouse or child shall  
23          be eligible for deferred action, advance parole, and work  
24          authorization.

25          (3) ALIEN DESCRIBED.—An alien is described in this  
26          paragraph if the alien—

27                (A) served honorably in an active duty status in  
28                the military, air, or naval forces of the United States;

29                (B) died as a result of injury or disease incurred  
30                in or aggravated by combat; and

31                (C) was granted posthumous citizenship under sec-  
32                tion 329A of the Immigration and Nationality Act (8  
33                U.S.C. 1440-1).

34          (d) PARENTS OF LAWFUL PERMANENT RESIDENT  
35          ALIENS.—

36                (1) SELF-PETITIONS.—Any parent of an alien de-  
37                scribed in paragraph (2) may file a petition for classifica-



tion under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), but only if the parent files a petition within 2 years after such date. For purposes of such Act, such petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)). Such parent shall be eligible for deferred action, advance parole, and work authorization.

(2) ALIEN DESCRIBED.—An alien is described in this paragraph if the alien—

(A) served honorably in an active duty status in the military, air, or naval forces of the United States;

(B) died as a result of injury or disease incurred in or aggravated by combat; and

(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1).

(e) WAIVER OF GROUND FOR INADMISSIBILITY.—In determining the admissibility of any alien accorded an immigration benefit under this section for purposes of the Immigration and Nationality Act, the ground for inadmissibility specified in section 212(a)(4) of such Act (8 U.S.C. 1182(a)(4)) shall not apply.

(f) NATURALIZATION FOR SURVIVING SPOUSES.—

(1) IN GENERAL.—Section 319(d) of the Immigration and Nationality Act (8 U.S.C. 1430(d)) is amended by adding at the end the following: “For purposes of this subsection, the terms ‘United States citizen’ and ‘citizen spouse’ include a person granted posthumous citizenship under section 329A.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to persons granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1) due to death on or after September 11, 2001.

(g) BENEFITS TO SURVIVORS; TECHNICAL AMENDMENT.—Section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1) is amended—



1 (1) by striking subsection (e); and

2 (2) by striking “Attorney General” each place that  
3 term appears and inserting “Secretary of Homeland Secu-  
4 rity”.

5 (h) TECHNICAL AND CONFORMING AMENDMENTS.—Sec-  
6 tion 319(d) of the Immigration and Nationality Act (8 U.S.C.  
7 1430(d)) is amended—

8 (1) by inserting “, child, or parent” after “surviving  
9 spouse”;

10 (2) by inserting “, parent, or child” after “whose cit-  
11 izen spouse”; and

12 (3) by striking “who was living” and inserting “who,  
13 in the case of a surviving spouse, was living”.

14 **SEC. 1704. EXPEDITED PROCESS FOR GRANTING POST-**  
15 **HUMOUS CITIZENSHIP TO MEMBERS OF THE**  
16 **ARMED FORCES.**

17 Section 329A of the Immigration and Nationality Act (8  
18 U.S.C. 1440–1) is amended—

19 (1) by striking subsection (c) and inserting the fol-  
20 lowing:

21 “(c) REQUESTS FOR POSTHUMOUS CITIZENSHIP.—

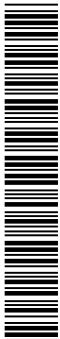
22 “(1) IN GENERAL.—A request for the granting of  
23 posthumous citizenship to a person described in subsection  
24 (b) may be filed on behalf of that person—

25 “(A) upon locating the next-of-kin, and if so re-  
26 quested by the next-of-kin, by the Secretary of Defense  
27 or the Secretary’s designee with the Bureau of Citizen-  
28 ship and Immigration Services in the Department of  
29 Homeland Security immediately upon the death of that  
30 person; or

31 “(B) by the next-of-kin.

32 “(2) APPROVAL.—The Director of the Bureau of Citi-  
33 zenship and Immigration Services shall approve a request  
34 for posthumous citizenship filed by the next-of-kin in ac-  
35 cordance with paragraph (1)(B) if—

36 “(A) the request is filed not later than 2 years  
37 after—



## 17–10

1 “(i) the date of enactment of this section; or  
2 “(ii) the date of the person’s death;  
3 whichever date is later;

4 “(B) the request is accompanied by a duly authen-  
5 ticated certificate from the executive department under  
6 which the person served which states that the person  
7 satisfied the requirements of paragraphs (1) and (2) of  
8 subsection (b); and

9 “(C) the Director finds that the person satisfied  
10 the requirement of subsection (b)(3).”; and

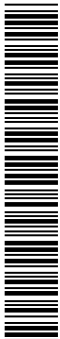
11 (2) by striking subsection (d) and inserting the fol-  
12 lowing:

13 “(d) DOCUMENTATION OF POSTHUMOUS CITIZENSHIP.—If  
14 the Director of the Bureau of Citizenship and Immigration  
15 Services approves the request referred to in subsection (c), the  
16 Director shall send to the next-of-kin of the person who is  
17 granted citizenship, a suitable document which states that the  
18 United States considers the person to have been a citizen of the  
19 United States at the time of the person’s death.”.

20 **SEC. 1705. EFFECTIVE DATE.**

21 (a) IN GENERAL.—Except as provided in subsection (b),  
22 this title and the amendments made by this title shall take ef-  
23 fect as if enacted on September 11, 2001.

24 (b) EXCEPTION.—The amendments made by sections  
25 1701(b) (relating to naturalization fees) and 1701(d) (relating  
26 to naturalization proceedings overseas) shall take effect on Oc-  
27 tober 1, 2004.





21-1

# **DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS**

## **SEC. 2001. SHORT TITLE.**

This division may be cited as the “Military Construction Authorization Act for Fiscal Year 2004”.

## **TITLE XXI—ARMY**

Sec. 2101. Authorized Army construction and land acquisition projects.

Sec. 2102. Family housing.

Sec. 2103. Improvements to military family housing units.

Sec. 2104. Authorization of appropriations, Army.

Sec. 2105. Termination or modification of authority to carry out certain fiscal year 2003 projects.

Sec. 2106. Modification of authority to carry out certain fiscal year 2002 projects.

Sec. 2107. Termination or modification of authority to carry out certain fiscal year 2001 projects.

## **SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

**Army: Inside the United States**

State	Installation or location	Amount
Alabama .....	Redstone Arsenal .....	\$5,500,000
Alaska .....	Fort Richardson .....	\$2,500,000
	Fort Wainwright .....	\$138,800,000
Colorado .....	Fort Carson .....	\$2,150,000
Georgia .....	Fort Benning .....	\$34,500,000
	Fort Gordon .....	\$4,350,000
	Fort Stewart/Hunter Army Air Field .....	\$113,500,000
Hawaii .....	Helemano Military Res- ervation .....	\$1,400,000
	Schofield Barracks .....	\$128,100,000
Kansas .....	Fort Leavenworth .....	\$115,000,000
	Fort Riley .....	\$40,000,000
Kentucky .....	Fort Knox .....	\$13,500,000
Louisiana .....	Fort Polk .....	\$72,000,000
Maryland .....	Fort Meade .....	\$9,600,000
Massachusetts .....	Soldier Systems Center, Natick .....	\$5,500,000
New Jersey .....	Naval Air Engineering Center, Lakehurst .....	\$2,250,000
	Picatinny Arsenal .....	\$8,000,000
New York .....	Fort Drum .....	\$130,700,000
North Carolina .....	Fort Bragg .....	\$125,400,000



## 21-2

**Army: Inside the United States—Continued**

State	Installation or location	Amount
Oklahoma .....	Fort Sill .....	\$5,500,000
Texas .....	Fort Bliss .....	\$5,400,000
	Fort Hood .....	\$49,800,000
Virginia .....	Fort Belvoir .....	\$7,000,000
	Fort Lee .....	\$3,850,000
	Fort Myer .....	\$9,000,000
Washington .....	Fort Lewis .....	\$3,900,000
	Total .....	\$1,037,200,000

1 (b) OUTSIDE THE UNITED STATES.—Subject to sub-  
2 section (c), using amounts appropriated pursuant to the au-  
3 thorization of appropriations in section 2104(a)(2), the Sec-  
4 retary of the Army may acquire real property and carry out  
5 military construction projects for the installations and locations  
6 outside the United States, and in the amounts, set forth in the  
7 following table:

**Army: Outside the United States**

Country	Installation or location	Amount
Germany .....	Grafenwoehr .....	\$76,000,000
	Vilseck .....	\$31,000,000
Italy .....	Aviano Air Base .....	\$28,500,000
	Livorno .....	\$22,000,000
Korea .....	Camp Humphreys .....	\$65,000,000
Kwajalein .....	Kwajalein .....	\$9,400,000
	Total .....	\$231,900,000

8 **SEC. 2102. FAMILY HOUSING.**

9 (a) CONSTRUCTION AND ACQUISITION.—Using amounts  
10 appropriated pursuant to the authorization of appropriations in  
11 section 2104(a)(5)(A), the Secretary of the Army may con-  
12 struct or acquire family housing units (including land acqui-  
13 sition and supporting facilities) at the installations, for the pur-  
14 poses, and in the amounts set forth in the following table:

**Army: Family Housing**

State or Country	Installation or loca- tion	Purpose	Amount
Alaska .....	Fort Wainwright .....	140 Units ...	\$64,000,000
Arizona .....	Fort Huachuca .....	220 Units ...	\$41,000,000
Kansas .....	Fort Riley .....	62 Units ...	\$16,700,000
Kentucky .....	Fort Knox .....	178 Units ...	\$41,000,000
New Mexico .....	White Sands Missile		
	Range .....	58 Units ...	\$14,600,000
Oklahoma .....	Fort Sill .....	120 Units ...	\$25,373,000
Virginia .....	Fort Lee .....	90 Units ...	\$18,000,000



21–3

**Army: Family Housing**—Continued

State or Country	Installation or location	Purpose	Amount
		Total: ...	\$220,673,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed \$34,488,000.

**SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed \$130,430,000.

**SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2003, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of \$2,874,856,000, as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), \$825,200,000.

(2) For military construction projects outside the United States authorized by section 2101(b), \$213,000,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, \$32,606,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$126,833,000.

(5) For military family housing functions:



## 21-4

1 (A) For construction and acquisition, planning  
2 and design, and improvement of military family hous-  
3 ing and facilities, \$383,591,000.

4 (B) For support of military family housing (in-  
5 cluding the functions described in section 2833 of title  
6 10, United States Code), \$1,043,026,000.

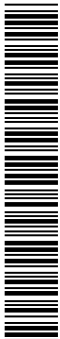
7 (6) For the construction of phase 3 of Saddle Access  
8 Road, Pohakoula Training Facility, Hawaii, authorized by  
9 section 2101(a) of the Military Construction Authorization  
10 Act for Fiscal Year 2001 (division B of the Floyd D.  
11 Spence National Defense Authorization Act for Fiscal Year  
12 2001 (as enacted into law by Public Law 106-398; 114  
13 Stat. 1654A-389)), as amended by section 2107 of this  
14 Act, \$17,000,000.

15 (7) For the construction of phase 4 of a barracks com-  
16 plex, Butner Road, at Fort Bragg, North Carolina, author-  
17 ized by section 2101(a) of the Military Construction Au-  
18 thorization Act for Fiscal Year 2001 (division B of the  
19 Floyd D. Spence National Defense Authorization Act for  
20 Fiscal Year 2001, as enacted into law by Public Law 106-  
21 398; 114 Stat. 1654A-389), as amended by section 2107  
22 of this Act, \$38,000,000.

23 (8) For the construction of phase 3 of a barracks com-  
24 plex, D Street, at Fort Richardson, Alaska, authorized by  
25 section 2101(a) of the Military Construction Authorization  
26 Act for Fiscal Year 2002 (division B of Public Law 107-  
27 107; 115 Stat. 1280), as amended by section 2106 of this  
28 Act, \$33,000,000.

29 (9) For the construction of phase 3 of a barracks com-  
30 plex, 17th and B Streets, at Fort Lewis, Washington, au-  
31 thorized by section 2101(a) of the Military Construction  
32 Authorization Act for Fiscal Year 2002 (division B of Pub-  
33 lic Law 107-107; 115 Stat. 1280), \$48,000,000.

34 (10) For the construction of phase 2 of a barracks  
35 complex, Capron Road, at Schofield Barracks, Hawaii, au-  
36 thorized by section 2101(a) of the Military Construction



## 21–5

1 Authorization Act for Fiscal Year 2003 (division B of Pub-  
2 lic Law 107–314; 116 Stat. 2681), \$49,000,000.

3 (11) For the construction of phase 2 of a combined  
4 arms collective training facility at Fort Riley, Kansas, au-  
5 thorized by section 2101(a) of the Military Construction  
6 Authorization Act for Fiscal Year 2003 (division B of Pub-  
7 lic Law 107–314; 116 Stat. 2681), as amended by section  
8 2105 of this Act, \$13,600,000.

9 (12) For the construction of phase 2 of a barracks  
10 complex, Range Road, at Fort Campbell, Kentucky, author-  
11 ized by section 2101(a) of the Military Construction Au-  
12 thorization Act for Fiscal Year 2003 (division B of Public  
13 Law 107–314; 116 Stat. 2681), \$49,000,000.

14 (13) For the construction of phase 2 of a consolidated  
15 maintenance complex at Fort Sill, Oklahoma, authorized by  
16 section 2101(a) of the Military Construction Authorization  
17 Act for Fiscal Year 2003 (division B of Public Law 107–  
18 314; 116 Stat. 2681), \$13,000,000.

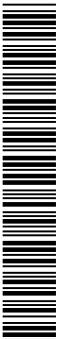
19 (b) LIMITATION ON TOTAL COST OF CONSTRUCTION  
20 PROJECTS.—Notwithstanding the cost variations authorized by  
21 section 2853 of title 10, United States Code, and any other  
22 cost variation authorized by law, the total cost of all projects  
23 carried out under section 2101 of this Act may not exceed the  
24 sum of the following:

25 (1) The total amount authorized to be appropriated  
26 under paragraphs (1) and (2) of subsection (a).

27 (2) \$32,000,000 (the balance of the amount author-  
28 ized under section 2101(a) for construction of a barracks,  
29 Fort Stewart/Hunter Army Airfield, Georgia).

30 (3) \$87,000,000 (the balance of the amount author-  
31 ized under section 2101(a) for construction of the Lewis  
32 and Clark Instructional Facility, Fort Leavenworth, Kan-  
33 sas).

34 (4) \$43,000,000 (the balance of the amount author-  
35 ized under section 2101(a) for construction of a barracks  
36 complex, Wheeler Army Airfield, Fort Drum, New York).



## 21–6

1 (5) \$50,000,000 (the balance of the amount author-  
2 ized under section 2101(a) for construction of a barracks  
3 complex, Bastogne Drive, Fort Bragg, North Carolina).

4 (6) \$18,900,000 (the balance of the amount author-  
5 ized under section 2101(b) for construction of a barracks  
6 complex, Vilseck, Germany).

7 (c) ADJUSTMENT.—The total amount authorized to be ap-  
8 propriated pursuant to paragraphs (1) through (13) of sub-  
9 section (a) is the sum of the amounts authorized to be appro-  
10 priated in such paragraphs, reduced by \$10,000,000, which  
11 represents corrections to Department of the Army estimates for  
12 military family housing support.

13 **SEC. 2105. TERMINATION OR MODIFICATION OF AU-**  
14 **THORITY TO CARRY OUT CERTAIN FISCAL**  
15 **YEAR 2003 PROJECTS.**

16 (a) MODIFICATION OF INSIDE THE UNITED STATES  
17 PROJECT.—The table in subsection (a) of section 2101 of the  
18 Military Construction Authorization Act for Fiscal Year 2003  
19 (division B of Public Law 107–314; 116 Stat. 2681) is  
20 amended—

21 (1) in the item relating to Fort Riley, Kansas, by  
22 striking “\$81,095,000” in the amount column and insert-  
23 ing “\$81,495,000”; and

24 (2) by striking the amount identified as the total in  
25 the amount column and inserting “\$1,156,167,000”.

26 (b) TERMINATION OF OUTSIDE THE UNITED STATES  
27 PROJECTS.—(1) The table in subsection (b) of such section is  
28 amended—

29 (A) by striking the item relating to Area Support  
30 Group, Bamberg, Germany;

31 (B) by striking the item relating to Coleman Barracks,  
32 Germany;

33 (C) by striking the item relating to Darmstadt, Ger-  
34 many;

35 (D) by striking the item relating to Mannheim, Ger-  
36 many;



## 21-7

1 (E) by striking the item relating to Schweinfurt, Ger-  
2 many;

3 (F) by striking the item relating to Camp Castle,  
4 Korea;

5 (G) by striking the item relating to Camp Hovey,  
6 Korea;

7 (H) by striking the item relating to K16 Airfield,  
8 Korea; and

9 (I) by striking the amount identified as the total in  
10 the amount column and inserting “\$216,266,000”.

11 (2) The authorization to carry out a military construction  
12 project at Camp Bonifas, Korea, provided by section 130 of the  
13 Military Construction Appropriation Act, 2003 (Public Law  
14 107-249; 116 Stat. 1586), using funds originally appropriated  
15 for a military construction project at Camp Kyle, Korea, is  
16 hereby rescinded.

17 (c) TERMINATION OF FAMILY HOUSING PROJECT OUT-  
18 SIDE THE UNITED STATES.—The table in section 2102(a) of  
19 the Military Construction Authorization Act for Fiscal Year  
20 2003 (116 Stat. 2683) is amended—

21 (1) by striking the item relating to Yongsan, Korea;  
22 and

23 (2) by striking the amount identified as the total in  
24 the amount column and inserting “\$23,852,000”.

25 (d) IMPROVEMENTS TO MILITARY FAMILY HOUSING  
26 UNITS.—Section 2103 of that Act (116 Stat. 2683) is amended  
27 by striking “\$239,751,000” and inserting “\$178,400,000”.

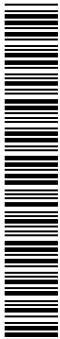
28 (e) CONFORMING AMENDMENTS.—Section 2104 of that  
29 Act (116 Stat. 2683) is amended—

30 (1) subsection (a)—

31 (A) in the matter preceding paragraph (1), by  
32 striking “\$3,104,176,000” and inserting  
33 “\$2,901,875,000”;

34 (B) in paragraph (2), by striking “\$354,116,000”  
35 and inserting “\$216,266,000”; and

36 (C) in paragraph (6)(A), by striking  
37 “\$282,356,000” and inserting “\$217,905,000”; and



21–8

1 (2) in subsection (b)(4), by striking “\$13,200,000”  
2 and inserting “\$13,600,000”.

3 **SEC. 2106. MODIFICATION OF AUTHORITY TO CARRY**  
4 **OUT CERTAIN FISCAL YEAR 2002 PROJECTS.**

5 (a) MODIFICATION OF INSIDE THE UNITED STATES  
6 PROJECT.—The table in section 2101(a) of the Military Con-  
7 struction Authorization Act for Fiscal Year 2002 (division B of  
8 Public Law 107–107; 115 Stat. 1281), as amended by section  
9 2105 of the Military Construction Authorization Act for Fiscal  
10 Year 2003 (division B of Public Law 107–314; 116 Stat.  
11 2685), is further amended—

12 (1) in the item relating to Fort Richardson, Alaska, by  
13 striking “\$115,000,000” in the amount column and insert-  
14 ing “\$117,000,000”; and

15 (2) by striking the amount identified as the total in  
16 the amount column and inserting “\$1,364,750,000”.

17 (b) MODIFICATION OF OUTSIDE THE UNITED STATES  
18 PROJECTS.—The table in section 2101(b) of the Military Con-  
19 struction Authorization Act for Fiscal Year 2002 (115 Stat.  
20 1282) is amended—

21 (1) in the item relating to Camp Hovey, Korea, by  
22 striking “\$35,750,000” in the amount column and insert-  
23 ing “\$24,980,000”;

24 (2) in the item relating to Camp Stanley, Korea, by  
25 striking “\$28,000,000” in the amount column and insert-  
26 ing “\$14,770,000”; and

27 (3) by striking the amount identified as the total in  
28 the amount column and inserting “\$236,343,000”.

29 (c) CONFORMING AMENDMENTS.—Section 2104 of that  
30 Act (115 Stat. 1283) is amended—

31 (1) in subsection (a)—

32 (A) in the matter preceding paragraph (1), by  
33 striking “\$3,155,594,000” and inserting  
34 “\$3,131,594,000”; and

35 (B) in paragraph (2), by striking “\$260,343,000”  
36 and inserting “\$236,343,000”; and





21-9

1 (2) in subsection (b)(2), by striking “\$52,000,000”  
2 and inserting “\$54,000,000”.

3 **SEC. 2107. TERMINATION OR MODIFICATION OF AU-**  
4 **THORITY TO CARRY OUT CERTAIN FISCAL**  
5 **YEAR 2001 PROJECTS.**

6 (a) MODIFICATION OF INSIDE THE UNITED STATES  
7 PROJECTS.—The table in section 2101(a) of the Military Con-  
8 struction Authorization Act for Fiscal Year 2001 (division B of  
9 the Floyd D. Spence National Defense Authorization Act for  
10 Fiscal Year 2001 (as enacted into law by Public Law 106-398;  
11 114 Stat. 1654A-389)), as amended by section 2105(a) of the  
12 Military Construction Authorization Act for Fiscal Year 2002  
13 (division B of Public Law 107-107; 115 Stat. 1285), is further  
14 amended—

15 (1) in the item relating to Pohakoula Training Facil-  
16 ity, Hawaii, by striking “\$32,000,000” in the amount col-  
17 umn and inserting “\$42,000,000”;

18 (2) in the item relating to Fort Bragg, North Caro-  
19 lina, by striking “\$222,200,000” in the amount column  
20 and inserting “\$255,200,000”; and

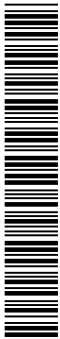
21 (3) by striking the amount identified as the total in  
22 the amount column and inserting “\$669,374,000”.

23 (b) TERMINATION OF OUTSIDE THE UNITED STATES  
24 PROJECT.—The table in section 2101(b) of the Military Con-  
25 struction Authorization Act for Fiscal Year 2001 (114 Stat.  
26 1654A-390), as amended by section 2106 of the Military Con-  
27 struction Authorization Act for Fiscal Year 2003 (division B of  
28 Public Law 107-314; 116 Stat. 2685), is further amended—

29 (1) by striking the item relating to Camp Stanley,  
30 Korea; and

31 (2) by striking the amount identified as the total in  
32 the amount column and inserting “\$100,350,000”.

33 (c) CONFORMING AMENDMENTS.—Section 2104 of the  
34 Military Construction Authorization Act for Fiscal Year 2001  
35 (114 Stat. 1654A-391), as amended by section 2105(b) of the  
36 Military Construction Authorization Act for Fiscal Year 2002



## 21–10

1 (division B of Public Law 107–107; 115 Stat. 1285), is further  
2 amended—

3 (1) in subsection (a)—

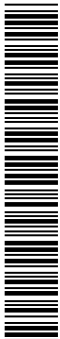
4 (A) in the matter preceding paragraph (1), by  
5 striking “\$1,935,744,000” and inserting  
6 “\$1,916,244,000”; and

7 (B) in paragraph (2), by striking “\$119,850,000”  
8 and inserting “\$100,350,000”; and

9 (2) in subsection (b)—

10 (A) in paragraph (5), by striking “\$104,000,000”  
11 and inserting “\$137,000,000”; and

12 (B) in paragraph (7), by striking “\$20,000,000”  
13 and inserting “\$30,000,000”.



**TITLE XXII—NAVY**

Sec. 2201. Authorized Navy construction and land acquisition projects.

Sec. 2202. Family housing.

Sec. 2203. Improvements to military family housing units.

Sec. 2204. Authorization of appropriations, Navy.

Sec. 2205. Termination of authority to carry out certain fiscal year 2003 projects.

Sec. 2206. Termination or modification of authority to carry out certain fiscal year 2002 projects.

**SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

**Navy: Inside the United States**

State	Installation or location	Amount
Arizona .....	Marine Corps Air Station, Yuma	\$22,230,000
California .....	Marine Corps Air-Ground Task Force Training Center, Twentynine Palms .....	\$42,090,000
	Marine Corps Air Station, Miramar .....	\$7,640,000
	Marine Corps Base, Camp Pendleton .....	\$73,580,000
	Naval Air Facility, San Clemente Island .....	\$18,940,000
	Naval Air Station, Lemoore .....	\$34,510,000
	Naval Air Station, North Island	\$49,240,000
	Naval Air Warfare Center, Point Mugu, San Nicholas Island ....	\$6,150,000
	Naval Postgraduate School, Monterey .....	\$42,560,000
	Naval Station, San Diego .....	\$49,710,000
Connecticut .....	Naval Submarine Base, New London .....	\$3,120,000
District of Columbia	Marine Corps Barracks .....	\$1,550,000
Florida .....	Blount Island (Jacksonville) .....	\$115,711,000
	Naval Air Station, Jacksonville ...	\$9,190,000
	Naval Air Station, Whiting Field, Milton .....	\$4,830,000
	Naval Surface Warfare Center, Coastal Systems Station, Panama City .....	\$9,550,000
Georgia .....	Strategic Weapons Facility Atlantic, Kings Bay .....	\$11,510,000
Hawaii .....	Fleet and Industrial Supply Center, Pearl Harbor .....	\$32,180,000
	Naval Magazine, Lualualei .....	\$6,320,000
	Naval Shipyard, Pearl Harbor ....	\$7,010,000
Illinois .....	Naval Training Center, Great Lakes .....	\$137,120,000



22-2

**Navy: Inside the United States**—Continued

State	Installation or location	Amount
Indiana .....	Naval Surface Warfare Center, Crane .....	\$11,400,000
Maryland .....	Naval Air Warfare Center, Patuxent River .....	\$28,270,000
	Naval Surface Warfare Center, Indian Head .....	\$14,850,000
Mississippi .....	Naval Air Station, Meridian .....	\$4,570,000
New Jersey .....	Naval Air Warfare Center, Lakehurst .....	\$20,681,000
	Naval Weapons Station, Earle ....	\$123,720,000
North Carolina .....	Marine Corps Air Station, New River .....	\$6,240,000
	Marine Corps Base, Camp Lejeune .....	\$29,450,000
Rhode Island .....	Naval Station, Newport .....	\$18,690,000
	Naval Undersea Warfare Center, Newport .....	\$10,890,000
South Carolina .....	Naval Weapons Station, Charleston .....	\$2,350,000
Texas .....	Naval Air Station, Corpus Christi .....	\$5,400,000
	Naval Station, Ingleside .....	\$7,070,000
Virginia .....	Henderson Hall, Arlington .....	\$1,970,000
	Marine Corps Combat Development Command, Quantico .....	\$18,120,000
	Naval Air Station, Oceana .....	\$10,000,000
	Naval Amphibious Base, Little Creek .....	\$3,810,000
	Naval Space Command Center, Dahlgren .....	\$24,020,000
	Naval Station, Norfolk .....	\$182,240,000
	Norfolk Naval Shipyard, Portsmouth .....	\$17,770,000
Washington .....	Naval Air Station, Whidbey Island .....	\$4,650,000
	Naval Magazine, Indian Island ...	\$2,240,000
	Naval Shipyard, Puget Sound ....	\$6,020,000
	Naval Submarine Base, Bangor ..	\$33,820,000
	Strategic Weapons Facility Pacific, Bangor .....	\$6,530,000
Various Locations ..	Various Locations, CONUS .....	\$56,360,000
	Total .....	\$1,335,872,000

1 (b) OUTSIDE THE UNITED STATES.—Using amounts ap-  
2 propriated pursuant to the authorization of appropriations in  
3 section 2204(a)(2), the Secretary of the Navy may acquire real  
4 property and carry out military construction projects for the lo-  
5 cations outside the United States, and in the amounts, set  
6 forth in the following table:

**Navy: Outside the United States**

Country	Installation or location	Amount
Bahrain .....	Naval Support Activity, Bahrain .....	\$18,030,000
Guam .....	Commander, United States Naval Forces, Marianas .....	\$1,700,000
Italy .....	Naval Air Station, Sigonella .....	\$34,070,000

**Navy: Outside the United States**—Continued

Country	Installation or location	Amount
	Naval Support Activity, La Maddalena .....	\$39,020,000
	Total .....	\$92,820,000

1   **SEC. 2202. FAMILY HOUSING.**

2           (a) CONSTRUCTION AND ACQUISITION.—Using amounts  
3   appropriated pursuant to the authorization of appropriations in  
4   section 2204(a)(5)(A), the Secretary of the Navy may construct  
5   or acquire family housing units (including land acquisition and  
6   supporting facilities) at the installations, for the purposes, and  
7   in the amounts set forth in the following table:

**Navy: Family Housing**

State or Country	Installation or location	Purpose	Amount
California .....	Naval Air Station, Lemoore .....	187 Units ....	\$41,585,000
Florida .....	Naval Air Station, Pensacola .....	25 Units .....	\$4,447,000
North Carolina .....	Marine Corps Air Station, Cherry Point ....	339 Units ....	\$42,803,000
	Marine Corps Base, Camp Lejeune .....	519 Units ....	\$68,531,000
		Total ....	\$157,366,000

8           (b) PLANNING AND DESIGN.—Using amounts appro-  
9   priated pursuant to the authorization of appropriation in sec-  
10   tion 2204(a)(5)(A), the Secretary of the Navy may carry out  
11   architectural and engineering services and construction design  
12   activities with respect to the construction or improvement of  
13   military family housing units in an amount not to exceed  
14   \$8,381,000.

15   **SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUS-**  
16           **ING UNITS.**

17           Subject to section 2825 of title 10, United States Code,  
18   and using amounts appropriated pursuant to the authorization  
19   of appropriations in section 2204(a)(5)(A), the Secretary of the  
20   Navy may improve existing military family housing units in an  
21   amount not to exceed \$20,446,000.



1   **SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.**

2       (a) IN GENERAL.—Funds are hereby authorized to be ap-  
3   propriated for fiscal years beginning after September 30, 2003,  
4   for military construction, land acquisition, and military family  
5   housing functions of the Department of the Navy in the total  
6   amount of \$2,267,729,000, as follows:

7       (1) For military construction projects inside the  
8   United States authorized by section 2201(a),  
9   \$1,001,092,000.

10      (2) For military construction projects outside the  
11   United States authorized by section 2201(b), \$92,820,000.

12      (3) For unspecified minor construction projects au-  
13   thorized by section 2805 of title 10, United States Code,  
14   \$14,585,000.

15      (4) For architectural and engineering services and  
16   construction design under section 2807 of title 10, United  
17   States Code, \$71,001,000.

18      (5) For military family housing functions:

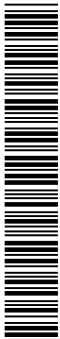
19          (A) For construction and acquisition, planning  
20   and design, and improvement of military family hous-  
21   ing and facilities, \$184,193,000.

22          (B) For support of military family housing (in-  
23   cluding functions described in section 2833 of title 10,  
24   United States Code), \$845,078,000.

25      (6) For construction of a bachelors enlisted quarters  
26   shipboard ashore at Naval Shipyard Norfolk, Virginia, au-  
27   thorized by section 2201(a) of the Military Construction  
28   Authorization Act for Fiscal Year 2003 (division B of Pub-  
29   lic Law 107-314; 116 Stat. 2687), \$46,730,000.

30      (7) For construction of phase III of a combined pro-  
31   pulsion and explosives lab at Naval Air Warfare Center,  
32   China Lake, California, authorized by section 2201(a) of  
33   the Military Construction Authorization Act for Fiscal Year  
34   2002 (division B of Public Law 107-107; 115 Stat. 1289),  
35   as amended by section 2206 of this Act, \$12,230,000.

36      (b) LIMITATION ON TOTAL COST OF CONSTRUCTION  
37   PROJECTS.—Notwithstanding the cost variations authorized by



1 section 2853 of title 10, United States Code, and any other  
2 cost variation authorized by law, the total cost of all projects  
3 carried out under section 2201 of this Act may not exceed the  
4 sum of the following:

5 (1) The total amount authorized to be appropriated  
6 under paragraphs (1) and (2) of subsection (a).

7 (2) \$25,690,000 (the balance of the amount author-  
8 ized under section 2101(a) for construction of a tertiary  
9 sewage treatment facility, Marine Corp Base, Camp Pen-  
10 dleton, California).

11 (3) \$58,190,000 (the balance of the amount author-  
12 ized under section 2101(a) for construction of a battle sta-  
13 tion training facility, Naval Training Center, Great Lakes,  
14 Illinois).

15 (4) \$96,980,000 (the balance of the amount author-  
16 ized under section 2101(a) for construction of a general  
17 purpose berthing pier, Naval Weapons Station Earle, New  
18 Jersey).

19 (5) \$118,170,000 (the balance of the amount author-  
20 ized under section 2101(a) for construction of the Pier 11  
21 replacement, Naval Station, Norfolk, Virginia).

22 (6) \$28,750,000 (the balance of the amount author-  
23 ized under section 2101(a) for construction of outlying  
24 landing field facilities, various locations in the continental  
25 United States).

26 (c) ADJUSTMENT.—The total amount authorized to be ap-  
27 propriated pursuant to paragraphs (1) through (7) of sub-  
28 section (a) is the sum of the amounts authorized to be appro-  
29 priated in such paragraphs, reduced by \$10,000,000, which  
30 represents corrections to Department of the Navy estimates for  
31 military family housing support.

32 **SEC. 2205. TERMINATION OF AUTHORITY TO CARRY OUT**  
33 **CERTAIN FISCAL YEAR 2003 PROJECTS.**

34 (a) TERMINATION OF INSIDE THE UNITED STATES  
35 PROJECTS.—The table in subsection (a) of section 2201 of the  
36 Military Construction Authorization Act for Fiscal Year 2003



1 (division B of Public Law 107–314; 116 Stat. 2686) is  
2 amended—

3 (1) by striking the item relating to Naval Air Warfare  
4 Center, China Lake, California;

5 (2) by striking the item relating to Marine Corps Air  
6 Station, Cherry Point, North Carolina; and

7 (3) by striking the amount identified as the total in  
8 the amount column and inserting “\$1,068,223,000”.

9 (b) TERMINATION OF OUTSIDE THE UNITED STATES  
10 PROJECTS.—The table in subsection (b) of such section is  
11 amended—

12 (1) by striking the item relating to Naval Support Ac-  
13 tivity, Joint Headquarters Command, Larissa, Greece;

14 (2) by striking the item relating to Naval Air Station,  
15 Keflavik, Iceland; and

16 (3) by striking the amount identified as the total in  
17 the amount column and inserting “\$129,100,000”.

18 (c) TERMINATION OF MILITARY FAMILY HOUSING  
19 PROJECT.—The table in section 2202(a) of that Act (116 Stat.  
20 2688) is amended—

21 (1) by striking the item relating to the Joint Maritime  
22 Facility, St. Mawgan, United Kingdom; and

23 (2) by striking the amount identified as the total in  
24 the amount column and inserting “\$210,195,000”.

25 (d) CONFORMING AMENDMENTS.—Section 2204 of that  
26 Act (116 Stat. 2688) is amended—

27 (1) in subsection (a)—

28 (A) in the matter preceding paragraph (1), by  
29 striking “\$2,576,381,000” and inserting  
30 “\$2,530,097,000”;

31 (B) in paragraph (1), by striking  
32 “\$1,025,598,000” and inserting “\$1,009,458,000”;

33 (C) in paragraph (2), by striking “\$148,250,000”  
34 and inserting “\$126,530,000”;

35 (D) in paragraph (5)(A), by striking  
36 “\$379,468,000” and inserting “\$360,944,000”; and





1 (E) by adding at the end the following new para-  
2 graph:

3 “(7) For construction of phase II of a combined pro-  
4 pulsion and explosives lab at Naval Air Warfare Center,  
5 China Lake, California, authorized by section 2201(a) of  
6 the Military Construction Authorization Act for Fiscal Year  
7 2002 (division B of Public Law 107-107; 115 Stat. 1289),  
8 as amended by section 2206 of the Military Construction  
9 Authorization Act for Fiscal Year 2004, \$10,100,000.”;  
10 and

11 (2) in subsection (c), by striking “through (6)” and  
12 inserting “through (7)”.

13 **SEC. 2206. TERMINATION OR MODIFICATION OF AU-**  
14 **THORITY TO CARRY OUT CERTAIN FISCAL**  
15 **YEAR 2002 PROJECTS.**

16 (a) MODIFICATION OF INSIDE THE UNITED STATES  
17 PROJECT.—The table in section 2201(a) of the Military Con-  
18 struction Authorization Act for Fiscal Year 2002 (division B of  
19 Public Law 107-107; 115 Stat. 1286), as amended by section  
20 2205 of the Bob Stump National Defense Authorization Act  
21 for Fiscal Year 2003 (Public Law 108-314; 116 Stat. 2689),  
22 is amended—

23 (1) in the item relating to Naval Air Warfare Center,  
24 China Lake, California, by striking “\$30,200,000” in the  
25 amount column and inserting “\$32,391,000”; and

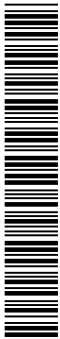
26 (2) by striking the amount identified as the total in  
27 the amount column and inserting “\$1,061,221,000”.

28 (b) TERMINATION OF OUTSIDE THE UNITED STATES  
29 PROJECT.—The table in section 2201(b) of the Military Con-  
30 struction Authorization Act for Fiscal Year 2002 (division B of  
31 Public Law 107-107; 115 Stat. 1287) is amended—

32 (1) by striking the item relating to Naval Support Ac-  
33 tivity, Joint Headquarters Command, Larissa, Greece; and

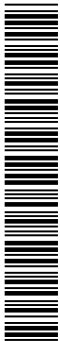
34 (2) by striking the amount identified as the total in  
35 the amount column and inserting “\$35,430,000”.

36 (c) CONFORMING AMENDMENTS.—Section 2204 of that  
37 Act (115 Stat. 1288) is amended—



22–8

1           (1) in subsection (a)—  
2           (A) in the matter preceding paragraph (1), by  
3           striking “\$2,366,742,000” and inserting  
4           “\$2,354,502,000”; and  
5           (B) in paragraph (2), by striking “\$47,670,000”  
6           and inserting “\$35,430,000”; and  
7           (2) in subsection (b)(3), by striking “\$20,100,000”  
8           and inserting “\$22,291,000”.



1

**TITLE XXIII—AIR FORCE**

Sec. 2301. Authorized Air Force construction and land acquisition projects.

Sec. 2302. Family housing.

Sec. 2303. Improvements to military family housing units.

Sec. 2304. Authorization of appropriations, Air Force.

Sec. 2305. Termination or modification of authority to carry out certain fiscal year 2003 projects.

2 **SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION**  
 3 **AND LAND ACQUISITION PROJECTS.**

4 (a) INSIDE THE UNITED STATES.—Using amounts appro-  
 5 priated pursuant to the authorization of appropriations in sec-  
 6 tion 2304(a)(1), the Secretary of the Air Force may acquire  
 7 real property and carry out military construction projects for  
 8 the installations and locations inside the United States, and in  
 9 the amounts, set forth in the following table:

**Air Force: Inside the United States**

State	Installation or location	Amount
Alabama .....	Maxwell Air Force Base .....	\$26,000,000
Alaska .....	Eielson Air Force Base .....	\$49,061,000
	Elmendorf Air Force Base .....	\$2,000,000
Arizona .....	Davis-Monthan Air Force Base .....	\$10,062,000
	Luke Air Force Base .....	\$14,300,000
Arkansas .....	Little Rock Air Force Base ....	\$3,695,000
California .....	Beale Air Force Base .....	\$22,750,000
	Edwards Air Force Base .....	\$26,744,000
	Los Angeles Air Force Base ..	\$5,000,000
Colorado .....	Buckley Air Force Base .....	\$7,019,000
	Peterson Air Force Base .....	\$10,200,000
Florida .....	Hurlburt Field .....	\$27,200,000
	Tyndall Air Force Base .....	\$15,820,000
Georgia .....	Robins Air Force Base .....	\$37,164,000
Hawaii .....	Hickam Air Force Base .....	\$80,096,000
Idaho .....	Mountain Home Air Force Base .....	\$15,245,000
Illinois .....	Scott Air Force Base .....	\$1,900,000
Mississippi .....	Columbus Air Force Base .....	\$7,700,000
	Keesler Air Force Base .....	\$2,900,000
Missouri .....	Whiteman Air Force Base .....	\$11,600,000
Nevada .....	Nellis Air Force Base .....	\$11,800,000
New Jersey .....	McGuire Air Force Base .....	\$11,861,000
New Mexico .....	Cannon Air Force Base .....	\$9,000,000
	Kirtland Air Force Base .....	\$11,247,000
	Tularosa Radar Test Site .....	\$3,600,000
North Carolina .....	Pope Air Force Base .....	\$24,499,000
	Seymour Johnson Air Force Base .....	\$22,622,000
North Dakota .....	Minot Air Force Base .....	\$12,690,000
Ohio .....	Wright-Patterson Air Force Base .....	\$21,100,000
Oklahoma .....	Altus Air Force Base .....	\$1,167,000
	Tinker Air Force Base .....	\$19,444,000
	Vance Air Force Base .....	\$15,000,000
South Carolina .....	Charleston Air Force Base .....	\$9,042,000



23-2

**Air Force: Inside the United States—Continued**

State	Installation or location	Amount
South Dakota .....	Shaw Air Force Base .....	\$8,500,000
	Ellsworth Air Force Base .....	\$9,300,000
	Goodfellow Air Force Base ....	\$20,335,000
	Lackland Air Force Base .....	\$57,360,000
	Laughlin Air Force Base .....	\$12,400,000
	Randolph Air Force Base .....	\$13,600,000
	Sheppard Air Force Base .....	\$38,167,000
Utah .....	Hill Air Force Base .....	\$21,748,000
Virginia .....	Langley Air Force Base .....	\$25,474,000
Washington .....	McChord Air Force Base .....	\$19,000,000
Total .....		\$775,412,000

1 (b) OUTSIDE THE UNITED STATES.—Using amounts ap-  
2 propriated pursuant to the authorization of appropriations in  
3 section 2304(a)(2), the Secretary of the Air Force may acquire  
4 real property and carry out military construction projects for  
5 the installations and locations outside the United States, and  
6 in the amounts, set forth in the following table:

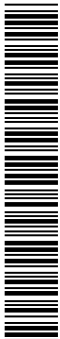
**Air Force: Outside the United States**

Country	Installation or location	Amount
Germany .....	Ramstein Air Base .....	\$35,616,000
	Spangdahlem Air Base .....	\$5,411,000
Italy .....	Aviano Air Base .....	\$14,025,000
Korea .....	Kunsan Air Base .....	\$7,059,000
	Osan Air Base .....	\$16,638,000
Portugal .....	Lajes Field, Azores .....	\$4,086,000
United Kingdom .....	Royal Air Force, Lakenheath	\$42,487,000
	Royal Air Force, Mildenhall ...	\$10,558,000
Wake Island .....	Wake Island .....	\$24,000,000
Total .....		\$159,880,000

7 (c) UNSPECIFIED WORLDWIDE.—Using amounts appro-  
8 priated pursuant to the authorization of appropriations in sec-  
9 tion 2304(a)(3), the Secretary of the Air Force may acquire  
10 real property and carry out military construction projects for  
11 the installation and location, and in the amount, set forth in  
12 the following table:

**Air Force: Unspecified Worldwide**

Location	Installation or location	Amount
Unspecified Worldwide ..	Classified Location .....	\$29,501,000
	Total .....	\$29,501,000



1     **SEC. 2302. FAMILY HOUSING.**

2           (a) CONSTRUCTION AND ACQUISITION.—Using amounts  
3     appropriated pursuant to the authorization of appropriations in  
4     section 2304(a)(6)(A), the Secretary of the Air Force may con-  
5     struct or acquire family housing units (including land acquisi-  
6     tion and supporting facilities) at the installations, for the pur-  
7     poses, and in the amounts set forth in the following table:

**Air Force: Family Housing**

State or Country	Installation or loca- tion	Purpose	Amount
Arizona .....	Davis-Monthan Air Force Base .....	93 Units ....	\$19,357,000
California .....	Travis Air Force Base ..	56 Units ....	\$12,723,000
Delaware .....	Dover Air Force Base ...	112 Units ....	\$19,601,000
Florida .....	Eglin Air Force Base ....	279 Units ....	\$32,166,000
Idaho .....	Mountain Home Air Force Base .....	186 Units ....	\$37,126,000
Maryland .....	Andrews Air Force Base	50 Units ....	\$20,233,000
Missouri .....	Whiteman Air Force Base .....	100 Units ....	\$18,221,000
Montana .....	Malmstrom Air Force Base .....	94 Units ....	\$19,368,000
North Carolina .....	Seymour Johnson Air Force Base .....	138 Units ....	\$18,336,000
North Dakota .....	Grand Forks Air Force Base .....	144 Units ....	\$29,550,000
	Minot Air Force Base ...	200 Units ....	\$41,117,000
South Dakota .....	Ellsworth Air Force Base .....	75 Units ....	\$16,240,000
Texas .....	Dyess Air Force Base ...	116 Units ....	\$19,973,000
	Randolph Air Force Base .....	96 Units ....	\$13,754,000
Korea .....	Osan Air Base .....	111 Units ....	\$44,765,000
Portugal .....	Lajes Field, Azores .....	42 Units ....	\$13,428,000
United Kingdom .....	Royal Air Force, Lakenheath .....	89 Units ....	\$23,640,000
		Total ....	\$399,598,000

8           (b) PLANNING AND DESIGN.—Using amounts appro-  
9     priated pursuant to the authorization of appropriations in sec-  
10    tion 2304(a)(6)(A), the Secretary of the Air Force may carry  
11    out architectural and engineering services and construction de-  
12    sign activities with respect to the construction or improvement  
13    of military family housing units in an amount not to exceed  
14    \$33,488,000.

15     **SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUS-**  
16     **ING UNITS.**

17           Subject to section 2825 of title 10, United States Code,  
18     and using amounts appropriated pursuant to the authorization



1 of appropriations in section 2304(a)(6)(A), the Secretary of the  
2 Air Force may improve existing military family housing units  
3 in an amount not to exceed \$227,979,000.

4 **SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR**  
5 **FORCE.**

6 (a) IN GENERAL.—Funds are hereby authorized to be ap-  
7 propriated for fiscal years beginning after September 30, 2003,  
8 for military construction, land acquisition, and military family  
9 housing functions of the Department of the Air Force in the  
10 total amount of \$2,550,890,000, as follows:

11 (1) For military construction projects inside the  
12 United States authorized by section 2301(a),  
13 \$766,932,000.

14 (2) For military construction projects outside the  
15 United States authorized by section 2301(b),  
16 \$159,880,000.

17 (3) For military construction projects at unspecified  
18 worldwide locations authorized by section 2301(c),  
19 \$28,981,000.

20 (4) For unspecified minor construction projects au-  
21 thorized by section 2805 of title 10, United States Code,  
22 \$16,180,000.

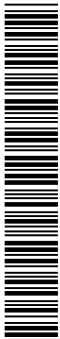
23 (5) For architectural and engineering services and  
24 construction design under section 2807 of title 10, United  
25 States Code, \$95,778,000.

26 (6) For military housing functions:

27 (A) For construction and acquisition, planning  
28 and design, and improvement of military family hous-  
29 ing and facilities, \$657,065,000.

30 (B) For support of military family housing (in-  
31 cluding functions described in section 2833 of title 10,  
32 United States Code), \$826,074,000.

33 (b) LIMITATION ON TOTAL COST OF CONSTRUCTION  
34 PROJECTS.—Notwithstanding the cost variations authorized by  
35 section 2853 of title 10, United States Code, and any other  
36 cost variation authorized by law, the total cost of all projects  
37 carried out under section 2301 of this Act may not exceed the



1 total amount authorized to be appropriated under paragraphs  
2 (1), (2), and (3) of subsection (a).

3 (c) ADJUSTMENT.—The total amount authorized to be ap-  
4 propriated pursuant to paragraphs (1) through (6) of sub-  
5 section (a) is the sum of the amounts authorized to be appro-  
6 priated in such paragraphs, reduced by \$10,000,000, which  
7 represents corrections to Department of the Air Force esti-  
8 mates for military family housing support.

9 **SEC. 2305. TERMINATION OR MODIFICATION OF AU-**  
10 **THORITY TO CARRY OUT CERTAIN FISCAL**  
11 **YEAR 2003 PROJECTS.**

12 (a) TERMINATION OF CLASSIFIED LOCATION PROJECT.—  
13 Section 2301(c) of the Military Construction Authorization Act  
14 for Fiscal Year 2003 (division B of Public Law 107–314; 116  
15 Stat. 2691) is amended by striking “\$24,993,000” both places  
16 it appears and inserting “\$1,993,000”.

17 (b) IMPROVEMENTS TO MILITARY FAMILY HOUSING  
18 UNITS.—Section 2303 of that Act (116 Stat. 2693) is amended  
19 by striking “\$226,068,000” and inserting “\$206,721,000”.

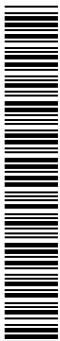
20 (c) CONFORMING AMENDMENTS.—Section 2304(a) of that  
21 Act (116 Stat. 2693) is amended—

22 (1) in the matter preceding paragraph (1), by striking  
23 “\$2,633,738,000” and inserting “\$2,591,391,000”;

24 (2) in paragraph (3), by striking “\$24,993,000” and  
25 inserting “\$1,993,000”; and

26 (3) in paragraph (6)(A), by striking “\$689,824,000”  
27 and inserting “\$670,477,000”.







# 1 TITLE XXIV—DEFENSE AGENCIES

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.

Sec. 2402. Family housing.

Sec. 2403. Improvements to military family housing units.

Sec. 2404. Energy conservation projects.

Sec. 2405. Authorization of appropriations, Defense Agencies.

Sec. 2406. Termination of authority to carry out certain fiscal year 2003 projects.

## 2 SEC. 2401. AUTHORIZED DEFENSE AGENCIES CON- 3 STRUCTION AND LAND ACQUISITION 4 PROJECTS.

5 (a) INSIDE THE UNITED STATES.—Using amounts appro-  
6 priated pursuant to the authorization of appropriations in sec-  
7 tion 2405(a)(1), the Secretary of Defense may acquire real  
8 property and carry out military construction projects for the in-  
9 stallations and locations inside the United States, and in the  
10 amounts, set forth in the following table:

### Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Defense Education Ac- tivity .....	Marine Corps Base, Camp Lejeune, North Carolina ....	\$15,259,000
Defense Logistics Agen- cy .....	Defense Distribution Depot, New Cumberland, Pennsyl- vania .....	\$27,700,000
	Eglin Air Force Base, Florida	\$4,800,000
	Eielson Air Force Base, Alas- ka .....	\$17,000,000
	Hickam Air Force Base, Ha- waii .....	\$14,100,000
	Hurlburt Field, Florida .....	\$4,100,000
	Offutt Air Force Base, Ne- braska .....	\$13,400,000
	Langley Air Force Base, Vir- ginia .....	\$13,000,000
	Laughlin Air Force Base, Texas .....	\$4,688,000
	McChord Air Force Base, Washington .....	\$8,100,000
	Naval Air Station, Kingsville, Texas .....	\$9,200,000
	Nellis Air Force Base, Nevada	\$12,800,000
	Redstone Arsenal, Alabama ...	\$20,000,000
Missile Defense Agency National Security Agen- cy .....	Fort Meade, Maryland .....	\$1,842,000
Special Operations Com- mand .....	Dam Neck, Virginia .....	\$15,281,000
	Fort Bragg, North Carolina ..	\$36,300,000
	Fort Campbell, Kentucky .....	\$7,800,000
	Harrisburg International Air- port, Pennsylvania .....	\$3,000,000



**Defense Agencies: Inside the United States**—Continued

Agency	Installation or location	Amount
TRICARE Management Activity .....	Hurlburt Field, Florida .....	\$6,000,000
	MacDill Air Force Base, Florida .....	\$25,500,000
	Naval Amphibious Base, Coronado, California .....	\$2,800,000
	Fort Hood, Texas .....	\$9,400,000
	Naval Station, Anacostia, District of Columbia .....	\$15,714,000
	Naval Submarine Base, New London, Connecticut .....	\$6,700,000
	United States Air Force Academy, Colorado .....	\$22,100,000
	Walter Reed Medical Center, District of Columbia .....	\$9,000,000
	Arlington, Virginia .....	\$38,086,000
Washington Headquarters Services .....	Total .....	\$363,670,000

1 (b) OUTSIDE THE UNITED STATES.—Using amounts ap-  
2 propriated pursuant to the authorization of appropriations in  
3 section 2405(a)(2), the Secretary of Defense may acquire real  
4 property and carry out military construction projects for the in-  
5 stallations and locations outside the United States, and in the  
6 amounts, set forth in the following table:

**Defense Agencies: Outside the United States**

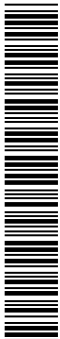
Agency	Installation or location	Amount
Defense Education Activity .....	Sigonella, Italy .....	\$30,234,000
	Vicenza, Italy .....	\$16,374,000
TRICARE Management Activity .....	Anderson Air Force Base, Guam .....	\$26,000,000
	Total .....	\$72,608,000

**SEC. 2402. FAMILY HOUSING.**

8 Using amounts appropriated pursuant to the authorization  
9 of appropriations in section 2405(a)(8)(A), the Secretary of  
10 Defense may carry out architectural and engineering services  
11 and construction design activities with respect to the construc-  
12 tion or improvement of military family housing units in an  
13 amount not to exceed \$300,000.

**SEC. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

16 Subject to section 2825 of title 10, United States Code,  
17 and using amounts appropriated pursuant to the authorization



1 of appropriations in section 2405(a)(8)(A), the Secretary of  
2 Defense may improve existing military family housing units in  
3 an amount not to exceed \$50,000.

4 **SEC. 2404. ENERGY CONSERVATION PROJECTS.**

5 Using amounts appropriated pursuant to the authorization  
6 of appropriations in section 2405(a)(6), the Secretary of De-  
7 fense may carry out energy conservation projects under section  
8 2865 of title 10, United States Code, in the amount of  
9 \$50,000,000.

10 **SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DE-**  
11 **FENSE AGENCIES.**

12 (a) IN GENERAL.—Funds are hereby authorized to be ap-  
13 propriated for fiscal years beginning after September 30, 2003,  
14 for military construction, land acquisition, and military family  
15 housing functions of the Department of Defense (other than  
16 the military departments) in the total amount of  
17 \$1,222,388,000, as follows:

18 (1) For military construction projects inside the  
19 United States authorized by section 2401(a),  
20 \$361,470,000.

21 (2) For military construction projects outside the  
22 United States authorized by section 2401(b), \$55,243,000.

23 (3) For unspecified minor construction projects under  
24 section 2805 of title 10, United States Code, \$15,553,000.

25 (4) For contingency construction projects of the Sec-  
26 retary of Defense under section 2804 of title 10, United  
27 States Code, \$8,960,000.

28 (5) For architectural and engineering services and  
29 construction design under section 2807 of title 10, United  
30 States Code, \$65,130,000.

31 (6) For energy conservation projects authorized by  
32 section 2404, \$50,000,000.

33 (7) For base closure and realignment activities as au-  
34 thorized by the Defense Base Closure and Realignment Act  
35 of 1990 (part A of title XXIX of Public Law 101–510; 10  
36 U.S.C. 2687 note), \$370,427,000.

37 (8) For military family housing functions:



1 (A) For planning, design, and improvement of  
2 military family housing and facilities, \$350,000.

3 (B) For support of military family housing (in-  
4 cluding functions described in section 2833 of title 10,  
5 United States Code), \$49,440,000.

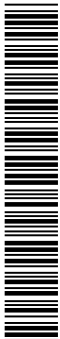
6 (C) For credit to the Department of Defense Fam-  
7 ily Housing Improvement Fund established by section  
8 2883(a)(1) of title 10, United States Code, \$300,000.

9 (9) For construction of the Defense Threat Reduction  
10 Center at Fort Belvoir, Virginia, authorized by section  
11 2401(a) of the Military Construction Authorization Act for  
12 Fiscal Year 2003 (division B of Public Law 107-314; 116  
13 Stat. 2695), \$25,700,000.

14 (10) For the construction of phase 5 of an ammuni-  
15 tion demilitarization facility at Pueblo Depot Activity, Colo-  
16 rado, authorized by section 2401(a) of the Military Con-  
17 struction Authorization Act for Fiscal Year 1997 (division  
18 B of Public Law 104-201; 110 Stat. 2775), as amended  
19 by section 2406 of the Military Construction Authorization  
20 Act for Fiscal Year 2000 (division B of Public Law 106-  
21 65; 113 Stat. 839) and section 2407 of the Military Con-  
22 struction Authorization Act for Fiscal Year 2003 (division  
23 B of Public Law 107-314; 116 Stat. 2698), \$88,388,000.

24 (11) For the construction of phase 6 of an ammuni-  
25 tion demilitarization facility at Newport Army Ammunition  
26 Plant, Indiana, authorized by section 2401(a) of the Mili-  
27 tary Construction Authorization Act for Fiscal Year 1999  
28 (division B of Public Law 105-261; 112 Stat. 2193), as  
29 amended by section 2406 of the Military Construction Au-  
30 thorization Act for Fiscal Year 2003 (division B of Public  
31 Law 107-314; 116 Stat. 2698), \$15,207,000.

32 (12) For the construction of phase 4 of an ammuni-  
33 tion demilitarization facility at Blue Grass Army Depot,  
34 Kentucky, authorized by section 2401(a) of the Military  
35 Construction Authorization Act for Fiscal Year 2000 (divi-  
36 sion B of Public Law 106-65; 113 Stat. 835), as amended  
37 by section 2405 of the Military Construction Authorization



1 Act for Fiscal Year 2002 (division B of Public Law 107–  
2 107; 115 Stat. 1298) and section 2405 of the Military Con-  
3 struction Authorization Act for Fiscal Year 2003 (division  
4 B of Public Law 107–314; 116 Stat. 2698), \$16,220,000.

5 (b) LIMITATION ON TOTAL COST OF CONSTRUCTION  
6 PROJECTS.—Notwithstanding the cost variations authorized by  
7 section 2853 of title 10, United States Code, and any other  
8 cost variation authorized by law, the total cost of all projects  
9 carried out under section 2401 of this Act may not exceed the  
10 total amount authorized to be appropriated under paragraphs  
11 (1) and (2) of subsection (a).

12 **SEC. 2406. TERMINATION OF AUTHORITY TO CARRY OUT**  
13 **CERTAIN FISCAL YEAR 2003 PROJECTS.**

14 (a) TERMINATION.—The table in section 2401(b) of the  
15 Military Construction Authorization Act for Fiscal Year 2003  
16 (division B of Public Law 107–314; 116 Stat. 2695) is  
17 amended—

18 (1) in the matter relating to Department of Defense  
19 Dependents Schools—

20 (A) by striking the item relating to Seoul, Korea;  
21 and

22 (B) by striking the item relating to Spangdahlem  
23 Air Base, Germany;

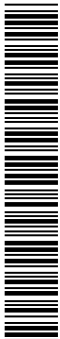
24 (2) in the matter relating to TRICARE Management  
25 Activity, by striking the item relating to Spangdahlem Air  
26 Base, Germany; and

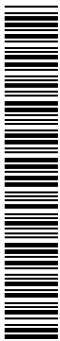
27 (3) by striking the amount identified as the total in  
28 the amount column and inserting “\$134,274,000”.

29 (b) CONFORMING AMENDMENTS.—Section 2404(a) of that  
30 Act (116 Stat. 2696) is amended—

31 (1) in the matter preceding paragraph (1), by striking  
32 “\$1,434,795,000” and inserting “\$1,362,486,000”; and

33 (2) in paragraph (2), by striking “\$206,583,000” and  
34 inserting “\$134,274,000”.





1   **TITLE     XXV—NORTH     ATLANTIC**  
2 **TREATY ORGANIZATION SECURITY**  
3 **INVESTMENT PROGRAM**

Sec. 2501. Authorized NATO construction and land acquisition projects.

Sec. 2502. Authorization of appropriations, NATO.

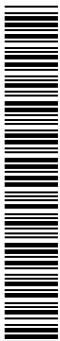
4   **SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND**  
5                   **LAND ACQUISITION PROJECTS.**

6           The Secretary of Defense may make contributions for the  
7 North Atlantic Treaty Organization Security Investment pro-  
8 gram as provided in section 2806 of title 10, United States  
9 Code, in an amount not to exceed the sum of the amount au-  
10 thorized to be appropriated for this purpose in section 2502  
11 and the amount collected from the North Atlantic Treaty Orga-  
12 nization as a result of construction previously financed by the  
13 United States.

14 **SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.**

15           Funds are hereby authorized to be appropriated for fiscal  
16 years beginning after September 30, 2003, for contributions by  
17 the Secretary of Defense under section 2806 of title 10, United  
18 States Code, for the share of the United States of the cost of  
19 projects for the North Atlantic Treaty Organization Security  
20 Investment program authorized by section 2501, in the amount  
21 of \$169,300,000.







1 **TITLE XXVI—GUARD AND RESERVE**  
2 **FORCES FACILITIES**

Sec. 2601. Authorized Guard and Reserve construction and land acquisition projects.

3 **SEC. 2601. AUTHORIZED GUARD AND RESERVE CON-**  
4 **STRUCTION AND LAND ACQUISITION**  
5 **PROJECTS.**

6 There are authorized to be appropriated for fiscal years  
7 beginning after September 30, 2003, for the costs of acquisi-  
8 tion, architectural and engineering services, and construction of  
9 facilities for the Guard and Reserve Forces, and for contribu-  
10 tions therefor, under chapter 1803 of title 10, United States  
11 Code (including the cost of acquisition of land for those facili-  
12 ties), the following amounts:

13 (1) For the Department of the Army—

14 (A) for the Army National Guard of the United  
15 States, \$311,592,000; and

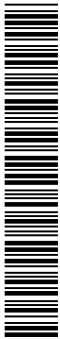
16 (B) for the Army Reserve, \$88,451,000.

17 (2) For the Department of the Navy, for the Naval  
18 and Marine Corps Reserve, \$45,498,000.

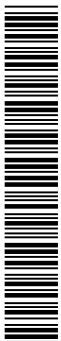
19 (3) For the Department of the Air Force—

20 (A) for the Air National Guard of the United  
21 States, \$222,908,000; and

22 (B) for the Air Force Reserve, \$62,032,000.



F:\TAD\ASCR04\H1588.CR



F:\V8\110703\110703.012  
November 7, 2003 (2:14 AM)

**TITLE XXVII—EXPIRATION AND  
EXTENSION OF AUTHORIZATIONS**

Sec. 2701. Expiration of authorizations and amounts required to be specified by law.

Sec. 2702. Extension of authorizations of certain fiscal year 2001 projects.

Sec. 2703. Extension of authorizations of certain fiscal year 2000 projects.

**SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND  
AMOUNTS REQUIRED TO BE SPECIFIED BY  
LAW.**

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2006; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2007.

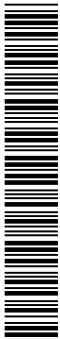
(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects, and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) for which appropriated funds have been obligated before the later of—

(1) October 1, 2006; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 2007 for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program.

**SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2001 PROJECTS.**

(a) EXTENSION OF CERTAIN PROJECTS.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year



1 2001 (as enacted into law by Public Law 106–398; 114 Stat.  
 2 1654A–407)), authorizations set forth in the tables in sub-  
 3 section (b), as provided in section 2102 or 2601 of that Act,  
 4 shall remain in effect until October 1, 2004, or the date of the  
 5 enactment of an Act authorizing funds for military construction  
 6 for fiscal year 2005, whichever is later.

7 (b) TABLES.—The tables referred to in subsection (a) are  
 8 as follows:

**Army: Extension of 2001 Project Authorization**

State	Installation or lo- cation	Project	Amount
South Carolina .....	Fort Jackson .....	New Construc- tion—Family Housing (1 Unit) .....	\$250,000

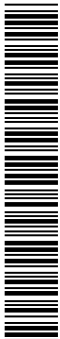
**Army National Guard: Extension of 2001 Project  
Authorizations**

State	Installation or lo- cation	Project	Amount
Arizona .....	Papago Park .....	Add/Alter Readiness Center .....	\$2,265,000
Pennsylvania .....	Mansfield .....	Readiness Cen- ter .....	\$3,100,000

9 **SEC. 2703. EXTENSION OF AUTHORIZATIONS OF CER-**  
 10 **TAIN FISCAL YEAR 2000 PROJECTS.**

11 (a) EXTENSION.—Notwithstanding section 2701 of the  
 12 Military Construction Authorization Act for Fiscal Year 2000  
 13 (division B of Public Law 106–65; 113 Stat. 841), the author-  
 14 izations set forth in the tables in subsection (b), as provided  
 15 in section 2302 or 2601 of that Act and extended by section  
 16 2702 of the Military Construction Authorization Act for Fiscal  
 17 Year 2003 (division B of Public Law 107–314; 116 Stat.  
 18 2700), shall remain in effect until October 1, 2004, or the date  
 19 of the enactment of an Act authorizing funds for military con-  
 20 struction for fiscal year 2005, whichever is later.

21 (b) TABLES.—The tables referred to in subsection (a) are  
 22 as follows:



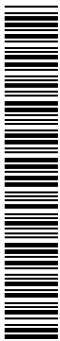
**Air Force: Extension of 2000 Project Authorization**

State	Installation or location	Project	Amount
Oklahoma .....	Tinker Air Force Base .....	Replace Family Housing (41 Units) .....	\$6,000,000

**Army National Guard: Extension of 2000 Project Authorization**

State	Installation or location	Project	Amount
Virginia .....	Fort Pickett .....	Multi-purpose Range-Heavy	\$13,500,000





28–1

1  
2

# TITLE XXVIII—GENERAL PROVISIONS

## Subtitle A—Military Construction Program and Military Family Housing Changes

- Sec. 2801. Modification of general definitions relating to military construction.
- Sec. 2802. Increase in maximum amount of authorized annual emergency construction.
- Sec. 2803. Increase in number of family housing units in Italy authorized for lease by the Navy.
- Sec. 2804. Increase in authorized maximum lease term for family housing and other facilities in certain foreign countries.
- Sec. 2805. Conveyance of property at military installations closed or realigned to support military construction.
- Sec. 2806. Inapplicability of space limitations to military unaccompanied housing units acquired or constructed under alternative authority.
- Sec. 2807. Additional material for reports on housing privatization program.
- Sec. 2808. Temporary, limited authority to use operation and maintenance funds for construction projects outside the United States.
- Sec. 2809. Report on military construction requirements to support new homeland defense missions of the Armed Forces.

## Subtitle B—Real Property and Facilities Administration

- Sec. 2811. Enhancement of authority to acquire low-cost interests in land.
- Sec. 2812. Retention and availability of amounts realized from energy cost savings.
- Sec. 2813. Acceptance of in-kind consideration for easements.

## Subtitle C—Base Closure and Realignment

- Sec. 2821. Consideration of public-access-road issues related to base closure, realignment, or placement in inactive status.
- Sec. 2822. Consideration of surge requirements in 2005 round of base realignments and closures.

## Subtitle D—Land Conveyances

### PART I—ARMY CONVEYANCES

- Sec. 2831. Termination of lease and conveyance of Army Reserve facility, Conway, Arkansas.
- Sec. 2832. Land conveyance, Fort Campbell, Kentucky and Tennessee.
- Sec. 2833. Land conveyance, Fort Knox, Kentucky.
- Sec. 2834. Army National Guard Armory, Pierce City, Missouri.
- Sec. 2835. Land exchange, Fort Belvoir, Virginia.

### PART II—NAVY CONVEYANCES

- Sec. 2841. Land conveyance, Navy property, Dixon, California.
- Sec. 2842. Land conveyance, Marine Corps Logistics Base, Albany, Georgia.
- Sec. 2843. Land exchange, Naval and Marine Corps Reserve Center, Portland, Oregon.
- Sec. 2844. Land conveyance, Naval Reserve Center, Orange, Texas.
- Sec. 2845. Land conveyance, Puget Sound Naval Shipyard, Bremerton, Washington.



## 28-2

## PART III—AIR FORCE CONVEYANCES

- Sec. 2851. Land exchange, March Air Reserve Base, California.  
Sec. 2852. Actions to quiet title, Fallin Waters Subdivision, Eglin Air Force Base, Florida.  
Sec. 2853. Modification of land conveyance, Eglin Air Force Base, Florida.

## PART IV—OTHER CONVEYANCES

- Sec. 2861. Land conveyance, Air Force and Army Exchange Service property, Dallas, Texas.  
Sec. 2862. Land conveyance, Umnak Island, Alaska.

**Subtitle E—Other Matters**

- Sec. 2871. Authority to accept guarantees with gifts in development of Marine Corps Heritage Center, Marine Corps Base, Quantico, Virginia.  
Sec. 2872. Redesignation of Yuma Training Range Complex as Bob Stump Training Range Complex.  
Sec. 2873. Feasibility study regarding conveyance of Louisiana Army Ammunition Plant, Doyline, Louisiana.

1     **Subtitle    A—Military    Construction**  
2         **Program and Military Family Hous-**  
3         **ing Changes**

4     **SEC. 2801. MODIFICATION OF GENERAL DEFINITIONS**  
5         **RELATING TO MILITARY CONSTRUCTION.**

6         (a) MILITARY CONSTRUCTION.—Subsection (a) of section  
7     2801 of title 10, United States Code, is amended by inserting  
8     before the period the following: “, whether to satisfy temporary  
9     or permanent requirements”.

10        (b) MILITARY INSTALLATION.—Subsection (c)(2) of such  
11     section is amended by inserting before the period the following:  
12     “, without regard to the duration of operational control”.

13     **SEC. 2802. INCREASE IN MAXIMUM AMOUNT OF AU-**  
14         **THORIZED ANNUAL EMERGENCY CONSTRUC-**  
15         **TION.**

16         Section 2803(c)(1) of title 10, United States Code, is  
17     amended by striking “\$30,000,000” and inserting  
18     “\$45,000,000”.

19     **SEC. 2803. INCREASE IN NUMBER OF FAMILY HOUSING**  
20         **UNITS IN ITALY AUTHORIZED FOR LEASE BY**  
21         **THE NAVY.**

22         Section 2828(e)(2) of title 10, United States Code, is  
23     amended by striking “2,000” and inserting “2,800”.





1 **SEC. 2804. INCREASE IN AUTHORIZED MAXIMUM LEASE**  
2 **TERM FOR FAMILY HOUSING AND OTHER FA-**  
3 **CILITIES IN CERTAIN FOREIGN COUNTRIES.**

4 (a) LEASE OF MILITARY FAMILY HOUSING.—Section  
5 2828(d)(1) of title 10, United States Code, is amended by  
6 striking “ten years,” and inserting “10 years, or 15 years in  
7 the case of leases in Korea,”.

8 (b) LEASE OF OTHER FACILITIES.—Section 2675 of such  
9 title is amended by inserting after “five years,” the following:  
10 “or 15 years in the case of a lease in Korea,”.

11 **SEC. 2805. CONVEYANCE OF PROPERTY AT MILITARY IN-**  
12 **STALLATIONS CLOSED OR REALIGNED TO**  
13 **SUPPORT MILITARY CONSTRUCTION.**

14 (a) IN GENERAL.—(1) Subchapter III of chapter 169 of  
15 title 10, United States Code, is amended by adding at the end  
16 the following new section:

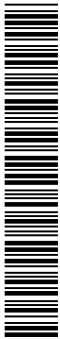
17 **“§ 2869. Conveyance of property at military instal-**  
18 **lations closed or realigned to support**  
19 **military construction**

20 “(a) CONVEYANCE AUTHORIZED; CONSIDERATION.—The  
21 Secretary concerned may enter into an agreement to convey  
22 real property, including any improvements thereon, located on  
23 a military installation that is closed or realigned under a base  
24 closure law to any person who agrees, in exchange for the real  
25 property—

26 “(1) to carry out a military construction project or  
27 land acquisition; or

28 “(2) to transfer to the Secretary concerned housing  
29 that is constructed or provided by the person and located  
30 at or near a military installation at which there is a short-  
31 age of suitable military family housing, military unaccom-  
32 panied housing, or both.

33 “(b) CONDITIONS ON CONVEYANCE AUTHORITY.—The fair  
34 market value of the military construction, military family hous-  
35 ing, or military unaccompanied housing to be obtained by the  
36 Secretary concerned under subsection (a) in exchange for the  
37 conveyance of real property by the Secretary under such sub-  
38 section shall be at least equal to the fair market value of the



1 conveyed real property, as determined by the Secretary. If the  
2 fair market value of the military construction, military family  
3 housing, or military unaccompanied housing is less than the  
4 fair market value of the real property to be conveyed, the re-  
5 cipient of the property shall pay to the United States an  
6 amount equal to the difference in the fair market values.

7 “(c) PILOT PROGRAM FOR USE OF AUTHORITY.—(1) To  
8 the maximum extent practicable, the Secretary of each military  
9 department shall use the conveyance authority provided by sub-  
10 section (a) at least once before December 31, 2004, for the  
11 purposes specified in such subsection.

12 “(2) The value of the consideration received by the Sec-  
13 retary concerned in a conveyance carried out under this sub-  
14 section shall not be less than \$1,000,000.

15 “(3) In the case of the report required under subsection  
16 (f) to be submitted in 2005, the Secretary of Defense shall in-  
17 clude the following:

18 “(A) A description of the conveyances carried out or  
19 proposed under this subsection.

20 “(B) A description of the procedures utilized to enter  
21 into any agreements for the conveyance of property under  
22 this subsection.

23 “(C) An assessment of the utility of such procedures  
24 for the disposal of property at military installations closed  
25 or realigned under the base closure laws, and for securing  
26 services described in subsection (a), including an assess-  
27 ment of any time saved and cost-savings achieved as a re-  
28 sult of the use of the conveyance authority provided by this  
29 section.

30 “(D) An assessment of private sector interest in the  
31 use of the conveyance authority provided by this section.

32 “(E) A description of the projects for which the Sec-  
33 retary concerned considered using the conveyance authority  
34 provided by this section, but did not do so, and an expla-  
35 nation of the decision.

36 “(d) ADVANCE NOTICE OF USE OF AUTHORITY.—(1) No-  
37 tice of the proposed use of the conveyance authority provided



1 by subsection (a) shall be provided in such manner as the Sec-  
2 retary of Defense may prescribe, including publication in the  
3 Federal Register and otherwise. When real property located at  
4 a military installation closed or realigned under the base clo-  
5 sure laws is to be conveyed by means of a public sale, the Sec-  
6 retary concerned may notify prospective purchasers that consid-  
7 eration for the property may be provided in the manner author-  
8 ized by such subsection.

9 “(2) The Secretary concerned may not enter into an  
10 agreement under subsection (a) for the conveyance of real  
11 property until—

12 “(A) the Secretary submits to Congress notice of the  
13 conveyance, including the military construction activities,  
14 military family housing, or military unaccompanied housing  
15 to be obtained in exchange for the conveyance; and

16 “(B) a period of 14 days expires beginning on the date  
17 on which the notice is submitted.

18 “(e) DEPOSIT OF FUNDS.—The Secretary concerned may  
19 deposit funds received under subsection (b) in the Department  
20 of Defense housing funds established under section 2883(a) of  
21 this title.

22 “(f) ANNUAL REPORT.—In the budget materials sub-  
23 mitted to Congress in connection with the submission of the  
24 budget for a fiscal year pursuant to section 1105 of title 31,  
25 the Secretary of Defense shall include a report detailing the fol-  
26 lowing:

27 “(1) The extent to which the Secretaries concerned  
28 used the authority provided by subsection (a) during the  
29 preceding fiscal year to convey real property in exchange  
30 for military construction and military housing, including  
31 the total value of the real property that was actually con-  
32 veyed during such fiscal year using such authority and the  
33 total value of the military construction and military hous-  
34 ing services obtained in exchange.

35 “(2) The plans for the use of such authority for the  
36 current fiscal year, the fiscal year covered by the budget,



1 and the period covered by the current future-years defense  
2 program under section 221 of this title.

3 “(3) The current inventory of unconveyed lands at  
4 military installations closed or realigned under a base clo-  
5 sure law.

6 “(g) DESCRIPTION OF PROPERTY.—The exact acreage and  
7 legal description of real property conveyed under subsection (a)  
8 shall be determined by surveys satisfactory to the Secretary  
9 concerned.

10 “(h) ADDITIONAL TERMS AND CONDITIONS.—The Sec-  
11 retary concerned may require such additional terms and condi-  
12 tions in connection with a conveyance under subsection (a) as  
13 the Secretary considers appropriate to protect the interests of  
14 the United States.”.

15 (2) The table of sections at the beginning of such sub-  
16 chapter is amended by adding at the end the following new  
17 item:

“2869. Conveyance of property at military installations closed or realigned  
to support military construction.”.

18 (b) EXCEPTION TO REQUIREMENT FOR AUTHORIZATION  
19 OF NUMBER OF HOUSING UNITS.—Section 2822(b) of such  
20 title is amended by adding at the end the following new para-  
21 graph:

22 “(6) Housing units constructed or provided under sec-  
23 tion 2869 of this title.”.

24 (c) CONFORMING AMENDMENT TO DEPARTMENT OF DE-  
25 FENSE HOUSING FUNDS.—Section 2883(c) of such title is  
26 amended—

27 (1) in paragraph (1), by adding at the end the fol-  
28 lowing new subparagraph:

29 “(F) Any amounts that the Secretary concerned trans-  
30 fers to that Fund pursuant to section 2869 of this title.”;  
31 and

32 (2) in paragraph (2), by adding at the end the fol-  
33 lowing new subparagraph:

34 “(F) Any amounts that the Secretary concerned trans-  
35 fers to that Fund pursuant to section 2869 of this title.”.



1 (d) CONFORMING REPEALS TO BASE CLOSURE LAWS.—  
2 (1) Section 204(e) of the Defense Authorization Amendments  
3 and Base Closure and Realignment Act (Public Law 100-526;  
4 10 U.S.C. 2687 note) is repealed.

5 (2) Section 2905(f) of the Defense Base Closure and Re-  
6 alignment Act of 1990 (part A of title XXIX of Public Law  
7 101-510; 10 U.S.C. 2687 note) is repealed.

8 **SEC. 2806. INAPPLICABILITY OF SPACE LIMITATIONS TO**  
9 **MILITARY UNACCOMPANIED HOUSING UNITS**  
10 **ACQUIRED OR CONSTRUCTED UNDER AL-**  
11 **TERNATIVE AUTHORITY.**

12 Section 2880(b)(2) of title 10, United States Code, is  
13 amended by striking “unless the unit is located on a military  
14 installation”.

15 **SEC. 2807. ADDITIONAL MATERIAL FOR REPORTS ON**  
16 **HOUSING PRIVATIZATION PROGRAM.**

17 (a) REPORTS ON SPECIFIC PROJECTS.—Subsection (a) of  
18 section 2884 of title 10, United States Code, is amended—

- 19 (1) by designating the second sentence of paragraph  
20 (2) as paragraph (4); and  
21 (2) by inserting after the first sentence in paragraph  
22 (2) the following new paragraph:

23 “(3)(A) In the case of a contract described in paragraph  
24 (1) proposed to be entered into with a private party, the report  
25 shall specify whether the contract will or may include a guar-  
26 antee (including the making of mortgage or rental payments)  
27 by the Secretary to the private party in the event of—

28 “(i) the closure or realignment of the installation for  
29 which housing will be provided under the contract;

30 “(ii) a reduction in force of units stationed at such in-  
31 stallation; or

32 “(iii) the extended deployment of units stationed at  
33 such installation.

34 “(B) If the contract will or may include such a guarantee,  
35 the report shall also—

36 “(i) describe the nature of the guarantee; and

37 “(ii) assess the extent and likelihood, if any, of the li-  
38 ability of the United States with respect to the guarantee.”.



(b) ANNUAL REPORTS.—Subsection (b) of such section is amended—

(1) in paragraph (2), by inserting before the period at the end the following: “, and such recommendations as the Secretary considers necessary for improving the extent and effectiveness of the use of such authorities in the future”; and

(2) by striking paragraph (3) and inserting the following new paragraphs:

“(3) A review of activities of the Secretary under this subchapter during such preceding fiscal year, shown for military family housing, military unaccompanied housing, dual military family housing and military unaccompanied housing, and ancillary supporting facilities.

“(4) If a contract for the acquisition or construction of military family housing, military unaccompanied housing, or dual military family housing and military unaccompanied housing entered into during the preceding fiscal year did not include the acquisition or construction of the types of ancillary supporting facilities specifically referred to in section 2871(1) of this title, a explanation of the reasons why such ancillary supporting facilities were not included.

“(5) A description of the Secretary’s plans for housing privatization activities under this subchapter (A) during the fiscal year for which the budget is submitted, and (B) during the period covered by the then-current future-years defense plan under section 221 of this title.”.

**SEC. 2808. TEMPORARY, LIMITED AUTHORITY TO USE OPERATION AND MAINTENANCE FUNDS FOR CONSTRUCTION PROJECTS OUTSIDE THE UNITED STATES.**

(a) TEMPORARY AUTHORITY.—During fiscal year 2004, the Secretary of Defense may use this section as authority to obligate appropriated funds available for operation and maintenance to carry out a construction project outside the United



1 States that the Secretary determines meets each of the fol-  
2 lowing conditions:

3 (1) The construction is necessary to meet urgent mili-  
4 tary operational requirements of a temporary nature involv-  
5 ing the use of the Armed Forces in support of a declaration  
6 of war, the declaration by the President of a national emer-  
7 gency under section 201 of the National Emergencies Act  
8 (50 U.S.C. 1621), or a contingency operation.

9 (2) The construction is not carried out at a military  
10 installation where the United States is reasonably expected  
11 to have a long-term presence.

12 (3) The United States has no intention of using the  
13 construction after the operational requirements have been  
14 satisfied.

15 (4) The level of construction is the minimum necessary  
16 to meet the temporary operational requirements.

17 (b) NOTIFICATION OF OBLIGATION OF FUNDS.—Within  
18 seven days after the date on which appropriated funds available  
19 for operation and maintenance are first obligated for a con-  
20 struction project under subsection (a), the Secretary of Defense  
21 shall submit to the congressional committees specified in sub-  
22 section (f) notice of the obligation of the funds and the con-  
23 struction project. The notice shall include the following:

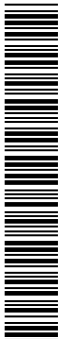
24 (1) Certification that the conditions specified in sub-  
25 section (a) are satisfied with regard to the construction  
26 project.

27 (2) A description of the purpose for which appro-  
28 priated funds available for operation and maintenance are  
29 being obligated.

30 (3) All relevant documentation detailing the construc-  
31 tion project.

32 (4) An estimate of the total amount obligated for the  
33 construction.

34 (c) LIMITATION ON USE OF AUTHORITY.—(1) The total  
35 cost of the construction projects carried out under the author-  
36 ity of this section using, in whole or in part, appropriated funds



1 available for operation and maintenance shall not exceed  
2 \$200,000,000 in fiscal year 2004.

3 (2) The Secretary of Defense may waive the limitation im-  
4 posed by paragraph (1) if the Secretary determines that the ob-  
5 ligation of operation and maintenance funds for construction  
6 projects in excess of the amount specified in such subsection  
7 is vital to the national security.

8 (3) Not later than five days after the date on which a  
9 waiver is granted under paragraph (2), the Secretary of De-  
10 fense shall submit to the congressional committees specified in  
11 subsection (f) notice containing the reasons for the waiver.

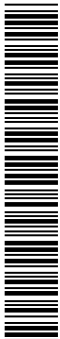
12 (d) QUARTERLY REPORT.—Not later than 30 days after  
13 the end of each fiscal-year quarter of fiscal year 2004, the Sec-  
14 retary of Defense shall submit to the congressional committees  
15 specified in subsection (f) a report on the worldwide obligation  
16 and expenditure during that quarter of appropriated funds  
17 available for operation and maintenance for construction  
18 projects.

19 (e) RELATION TO OTHER AUTHORITIES.—The temporary  
20 authority provided by this section, and the limited authority  
21 provided by section 2805(c) of title 10, United States Code, to  
22 use appropriated funds available for operation and maintenance  
23 to carry out a construction project are the only authorities  
24 available to the Secretary of Defense and the Secretaries of the  
25 military departments to use appropriated funds available for  
26 operation and maintenance to carry out construction projects.

27 (f) CONGRESSIONAL COMMITTEES.—The congressional  
28 committees referred to in this section are the following:

29 (1) The Committee on Armed Services and the Sub-  
30 committees on Defense and Military Construction of the  
31 Committee on Appropriations of the Senate.

32 (2) The Committee on Armed Services and the Sub-  
33 committees on Defense and Military Construction of the  
34 Committee on Appropriations of the House of Representa-  
35 tives.





1 **SEC. 2809. REPORT ON MILITARY CONSTRUCTION RE-**  
2 **QUIREMENTS TO SUPPORT NEW HOMELAND**  
3 **DEFENSE MISSIONS OF THE ARMED FORCES.**

4 Not later than February 15, 2004, the Secretary of De-  
5 fense shall submit to Congress a report describing all military  
6 construction projects carried out to support new homeland de-  
7 fense missions of the Armed Forces undertaken since Sep-  
8 tember 11, 2001, and containing an assessment of the military  
9 construction requirements anticipated to be necessary during  
10 fiscal years 2005, 2006, and 2007 to support such missions.

11 **Subtitle B—Real Property and**  
12 **Facilities Administration**

13 **SEC. 2811. ENHANCEMENT OF AUTHORITY TO ACQUIRE**  
14 **LOW-COST INTERESTS IN LAND.**

15 (a) INCREASE IN ACQUISITION THRESHOLD.—Section  
16 2672 of title 10, United States Code, is amended—

17 (1) by redesignating subsections (a)(2) and (b) as sub-  
18 sections (b) and (c), respectively;

19 (2) in subsection (a)—

20 (A) in paragraph (1)(B), by striking “\$500,000”  
21 and inserting “\$750,000”; and

22 (B) by inserting after paragraph (1) the following  
23 new paragraph (2):

24 “(2) The Secretary of a military department may acquire  
25 any interest in land that—

26 “(A) the Secretary determines is needed solely to cor-  
27 rect a deficiency that is life-threatening, health-threatening,  
28 or safety-threatening; and

29 “(B) does not cost more than \$1,500,000, exclusive of  
30 administrative costs and the amounts of any deficiency  
31 judgments.”; and

32 (3) in subsection (b), as so redesignated, by striking  
33 “\$500,000” and inserting “\$750,000, in the case of an ac-  
34 quisition under subsection (a)(1), or \$1,500,000, in the  
35 case of an acquisition under subsection (a)(2)”.

36 (b) CLERICAL AMENDMENTS.—(1) Such section is further  
37 amended—



1 (A) in subsection (a), by inserting “ACQUISITION AU-  
2 THORITY.—” before “(1)”;

3 (B) in subsection (b), as redesignated by subsection  
4 (a)(1), by inserting “ACQUISITION OF MULTIPLE PAR-  
5 CELS.—” before “This section”; and

6 (C) in subsection (c), as redesignated by subsection  
7 (a)(1), by inserting “SURVEY AND ACQUISITION METH-  
8 ODS.—” before “The authority”.

9 (2) The heading of such section is amended to read as fol-  
10 lows:

11 **“§ 2672. Authority to acquire low-cost interests in**  
12 **land”.**

13 (3) The item relating to section 2672 in the table of sec-  
14 tions at the beginning of chapter 159 of such title is amended  
15 to read as follows:

“2672. Authority to acquire low-cost interests in land.”.

16 **SEC. 2812. RETENTION AND AVAILABILITY OF AMOUNTS**  
17 **REALIZED FROM ENERGY COST SAVINGS.**

18 (a) IN GENERAL.—Section 2865(b) of title 10, United  
19 States Code, is amended—

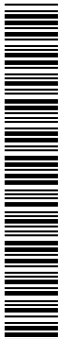
20 (1) in paragraph (1), by striking “Two-thirds of the  
21 portion of the funds appropriated” and inserting “An  
22 amount of the funds appropriated”;

23 (2) in paragraph (2), by striking “The Secretary” and  
24 inserting “The Secretary of Defense”; and

25 (3) by adding at the end the following new paragraph:

26 “(4) The Secretary of Defense shall include in the budget  
27 material submitted to Congress in connection with the submis-  
28 sion of the budget for a fiscal year pursuant to section 1105  
29 of title 31 a separate statement of the amounts available for  
30 obligation under this subsection in such fiscal year.”.

31 (b) EFFECTIVE DATE.—The amendment made by sub-  
32 section (a)(1) shall not apply to funds appropriated for a fiscal  
33 year before fiscal year 2004.



1 **SEC. 2813. ACCEPTANCE OF IN-KIND CONSIDERATION**  
2 **FOR EASEMENTS.**

3 (a) EASEMENTS FOR RIGHTS-OF-WAY.—Section 2668(e)  
4 of title 10, United States Code, is amended—

5 (1) by striking “Subsection (d)” and inserting “Sub-  
6 sections (c) and (d)”;

7 (2) by inserting “in-kind consideration and” before  
8 “proceeds”; and

9 (3) by striking “subsection applies to” and inserting  
10 “subsections apply to in-kind consideration and”.

11 (b) EASEMENTS FOR UTILITY LINES.—Section 2669(e) of  
12 such title is amended—

13 (1) by striking “Subsection (d)” and inserting “Sub-  
14 sections (c) and (d)”;

15 (2) by inserting “in-kind consideration and” before  
16 “proceeds”; and

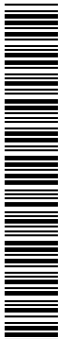
17 (3) by striking “subsection applies to” and inserting  
18 “subsections apply to in-kind consideration and”.

19 **Subtitle C—Base Closure and**  
20 **Realignment**

21 **SEC. 2821. CONSIDERATION OF PUBLIC-ACCESS-ROAD**  
22 **ISSUES RELATED TO BASE CLOSURE, RE-**  
23 **ALIGNMENT, OR PLACEMENT IN INACTIVE**  
24 **STATUS.**

25 Section 2905(b)(2) of the Defense Base Closure and Re-  
26 alignment Act of 1990 (part A of title XXIX of Public Law  
27 101–510; 10 U.S.C. 2687 note) is amended by adding at the  
28 end the following new subparagraph:

29 “(E) If a military installation to be closed, realigned, or  
30 placed in an inactive status under this part includes a road  
31 used for public access through, into, or around the installation,  
32 the Secretary of Defense shall consult with the Governor of the  
33 State and the heads of the local governments concerned for the  
34 purpose of considering the continued availability of the road for  
35 public use after the installation is closed, realigned, or placed  
36 in an inactive status.”.



28-14

1 **SEC. 2822. CONSIDERATION OF SURGE REQUIREMENTS**  
2 **IN 2005 ROUND OF BASE REALIGNMENTS**  
3 **AND CLOSURES.**

4 (a) DETERMINATION OF SURGE REQUIREMENTS.—The  
5 Secretary of Defense shall assess the probable threats to na-  
6 tional security and, as part of such assessment, determine the  
7 potential, prudent, surge requirements to meet those threats.

8 (b) USE OF DETERMINATION.—The Secretary shall use  
9 the surge requirements determination made under subsection  
10 (a) in the base realignment and closure process under the De-  
11 fense Base Closure and Realignment Act of 1990 (part A of  
12 title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), as  
13 amended by title XXX of the National Defense Authorization  
14 Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat.  
15 1342).

16 **Subtitle D—Land Conveyances**

17 **PART I—ARMY CONVEYANCES**

18 **SEC. 2831. TERMINATION OF LEASE AND CONVEYANCE**  
19 **OF ARMY RESERVE FACILITY, CONWAY, AR-**  
20 **KANSAS.**

21 (a) TERMINATION OF LEASE.—Upon the completion of the  
22 replacement facility authorized for the Army Reserve facility lo-  
23 cated in Conway, Arkansas, the Secretary of the Army may ter-  
24 minate the 99-year lease between the Secretary and the Univer-  
25 sity of Central Arkansas for the property on which the old fa-  
26 cility is located.

27 (b) CONVEYANCE OF FACILITY.—As part of the termi-  
28 nation of the lease under subsection (a), the Secretary may  
29 convey, without consideration, to the University of Central Ar-  
30 kansas all right, title, and interest of the United States in and  
31 to the Army Reserve facility located on the leased property.

32 (c) ASSUMPTION OF LIABILITY.—The University of Cen-  
33 tral Arkansas shall expressly accept any and all liability per-  
34 taining to the physical condition of the Army Reserve facility  
35 conveyed under subsection (b) and shall hold the United States  
36 harmless from any and all liability arising from the facility's  
37 physical condition.



1   **SEC. 2832. LAND CONVEYANCE, FORT CAMPBELL, KEN-**  
2   **TUCKY AND TENNESSEE.**

3       (a) CONVEYANCE AUTHORIZED.—The Secretary of the  
4   Army may convey to the department of transportation of the  
5   State of Tennessee all right, title, and interest of the United  
6   States in and to a parcel of real property (right-of-way), includ-  
7   ing any improvements thereon, located at Fort Campbell, Ken-  
8   tucky and Tennessee, for the purpose of realigning and upgrad-  
9   ing United States Highway 79 from a two-lane highway to a  
10   four-lane highway.

11       (b) CONSIDERATION.—(1) As consideration for the convey-  
12   ance under subsection (a), the department of transportation of  
13   the State of Tennessee shall pay from any source (including  
14   Federal funds made available to the State from the Highway  
15   Trust Fund) all of the costs of the Secretary incurred—

16       (A) to convey the property, including costs related to  
17       the preparation of documents under the National Environ-  
18       mental Policy Act of 1969 (42 U.S.C. 4321 et seq.), sur-  
19       veys (including all surveys required under subsection (c)),  
20       cultural reviews, and administrative oversight;

21       (B) to relocate a cemetery to permit the highway re-  
22       alignment and upgrading;

23       (C) to acquire approximately 200 acres of mission-es-  
24       sential replacement property required to support the train-  
25       ing mission at Fort Campbell; and

26       (D) to dispose of residual Federal property located  
27       south of the realigned highway.

28       (2) The Secretary of the Army may accept funds under  
29   this subsection from the State of Tennessee or transferred by  
30   the Secretary of Transportation at the request of the State  
31   from Federal-aid highway funds made available to the State to  
32   pay costs described in paragraph (1) and credit them to the ap-  
33   propriate Department of the Army accounts for the purpose of  
34   paying such costs.

35       (3) All funds made available from the Highway Trust  
36   Fund to pay costs described in paragraph (1) shall be provided  
37   subject to the requirements of section 120(b) of title 23, United



1 States Code, relating to the Federal share payable on account  
2 of a project or activity.

3 (4) All funds accepted by the Secretary under this sub-  
4 section shall remain available until expended.

5 (c) DESCRIPTION OF PROPERTY.—The exact acreage and  
6 legal description of the property to be conveyed under sub-  
7 section (a) or acquired and disposed of under section (b) shall  
8 be determined by surveys satisfactory to the Secretary.

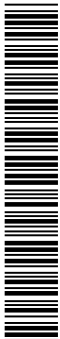
9 (d) ADDITIONAL TERMS AND CONDITIONS.—The Sec-  
10 retary may require such additional terms and conditions in con-  
11 nection with the conveyance under subsection (a) as the Sec-  
12 retary considers appropriate to protect the interests of the  
13 United States.

14 **SEC. 2833. LAND CONVEYANCE, FORT KNOX, KENTUCKY.**

15 (a) CONVEYANCE AUTHORIZED.—The Secretary of the  
16 Army may convey, without consideration, to the Department of  
17 Veterans Affairs of the Commonwealth of Kentucky (in this  
18 section referred to as the “Department”) all right, title, and in-  
19 terest of the United States in and to a parcel of real property,  
20 including any improvements thereon, consisting of approxi-  
21 mately 93 acres at Fort Knox, Kentucky, for the purpose of  
22 permitting the Department to establish and operate a State-run  
23 cemetery for veterans of the Armed Forces.

24 (b) REIMBURSEMENT FOR COSTS OF CONVEYANCE.—(1)  
25 The Department shall reimburse the Secretary for any costs in-  
26 curred by the Secretary in making the conveyance under sub-  
27 section (a), including costs related to environmental docu-  
28 mentation and other administrative costs. This paragraph does  
29 not apply to costs associated with the environmental remedi-  
30 ation of the property to be conveyed.

31 (2) Amounts received as reimbursement under paragraph  
32 (1) shall be credited to the fund or account that was used to  
33 cover the costs incurred by the Secretary in carrying out the  
34 conveyance. Amounts so credited shall be merged with amounts  
35 in such fund or account, and shall be available for the same  
36 purposes, and subject to the same conditions and limitations,  
37 as amounts in such fund or account.



1 (c) DESCRIPTION OF PROPERTY.—The exact acreage and  
2 legal description of the real property to be conveyed under sub-  
3 section (a) shall be determined by a survey satisfactory to the  
4 Secretary.

5 (d) ADDITIONAL TERMS AND CONDITIONS.—The Sec-  
6 retary may require such additional terms and conditions in con-  
7 nection with the conveyance under subsection (a) as the Sec-  
8 retary considers appropriate to protect the interests of the  
9 United States.

10 **SEC. 2834. ARMY NATIONAL GUARD ARMORY, PIERCE**  
11 **CITY, MISSOURI.**

12 (a) CONTRIBUTION AUTHORIZED.—The Secretary of the  
13 Army may make a contribution under section 18233(a) of title  
14 10, United States Code, for a facility for a new Army National  
15 Guard armory in Pierce City, Missouri, in excess of the con-  
16 tribution otherwise authorized by section 18236(b)(2) of such  
17 title, if the Secretary determines that—

18 (1) there is a compelling and immediate need for the  
19 construction of the facility;

20 (2) the requirement for the facility was unanticipated  
21 and results from a natural disaster;

22 (3) failure to construct the facility immediately would  
23 have an adverse impact on the mission of the unit assigned  
24 to the facility; and

25 (4) the real property for the facility will be provided  
26 by the State of Missouri.

27 (b) LIMITATION.—The amount of the additional contribu-  
28 tion provided pursuant to subsection (a), which would otherwise  
29 be required by section 18236(b)(2) of title 10, United States  
30 Code, from the State of Missouri for the construction of the fa-  
31 cility, may not exceed the amount specified in section  
32 18233a(a)(1) of such title.

33 (c) AUTHORITY TO ACCEPT REAL PROPERTY FROM  
34 STATE.—The Secretary may accept from the State of Missouri  
35 the donation of real property, in addition to the real property  
36 required to be contributed by the State under subsection (a)(4),  
37 that is acceptable to the Secretary and has a market value not



1 in excess of the amount of the additional contribution provided  
2 pursuant to subsection (a).

3 **SEC. 2835. LAND EXCHANGE, FORT BELVOIR, VIRGINIA.**

4 (a) LAND EXCHANGE AUTHORIZED.—Upon receipt of the  
5 consideration referred to in subsection (b), the Secretary of the  
6 Army may convey to the Fairfax County Park Authority of  
7 Fairfax County, Virginia (in this section referred to as the  
8 “Authority”), all right, title, and interest of the United States  
9 in and to a parcel of real property, including any improvements  
10 thereon, consisting of approximately 12 acres at Fort Belvoir,  
11 Virginia.

12 (b) CONSIDERATION.—As consideration for the conveyance  
13 of the property under subsection (a), the Authority shall convey  
14 to the United States all right, title, and interest of the Author-  
15 ity in and to a parcel of real property acceptable to the Sec-  
16 retary. The Secretary shall have administrative jurisdiction  
17 over the real property received under this subsection.

18 (c) COSTS OF CONVEYANCE.—(1) The Secretary may col-  
19 lect funds from the Authority to cover costs incurred or to be  
20 incurred by the Secretary to carry out a conveyance under this  
21 section, including survey costs, costs related to environmental  
22 documentation, and other administrative costs related to the  
23 conveyance. If amounts are collected from the Authority in ad-  
24 vance of the Secretary incurring the actual costs, and the  
25 amount collected exceeds the costs actually incurred by the Sec-  
26 retary to carry out the conveyance, the Secretary shall refund  
27 the excess amount to the Authority.

28 (2) Amounts collected under paragraph (1) to cover costs  
29 previously incurred by the Secretary shall be credited to the  
30 fund or account that was used to cover the costs. Amounts so  
31 credited shall be merged with amounts in such fund or account,  
32 and shall be available for the same purposes, and subject to the  
33 same conditions and limitations, as amounts in such fund or  
34 account.

35 (d) DESCRIPTION OF PROPERTY.—The exact acreage and  
36 legal description of the parcels of real property to be conveyed





1 under this section shall be determined by surveys satisfactory  
2 to the Secretary.

3 (e) ADDITIONAL TERMS AND CONDITIONS.—The Sec-  
4 retary may require such additional terms and conditions in con-  
5 nection with the conveyances under this section as the Sec-  
6 retary considers appropriate to protect the interests of the  
7 United States.

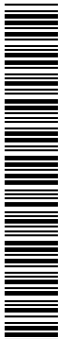
## 8 **PART II—NAVY CONVEYANCES**

### 9 **SEC. 2841. LAND CONVEYANCE, NAVY PROPERTY, DIXON,** 10 **CALIFORNIA.**

11 (a) CONVEYANCE AUTHORIZED.—The Secretary of the  
12 Navy may convey, without consideration, to the Housing Au-  
13 thority of the City of Dixon, California, (in this section referred  
14 to as the “Housing Authority”), all right, title, and interest of  
15 the United States in and to a parcel of real property, including  
16 improvements thereon, that consists of approximately 40.41  
17 acres located at 7290 Radio Station Road in Dixon, California,  
18 and is currently used by the Housing Authority as the site for  
19 the Fred H. Rehman Dixon Migrant Center for the purpose of  
20 permitting the Housing Authority to continue to provide suit-  
21 able housing and support services to migrant workers.

22 (b) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Sec-  
23 retary shall require the Housing Authority to cover costs to be  
24 incurred by the Secretary after the date of the enactment of  
25 this Act, or to reimburse the Secretary for costs incurred by  
26 the Secretary after such date, to carry out the conveyance  
27 under subsection (a), including any survey costs, costs related  
28 to environmental documentation, and other administrative costs  
29 related to the conveyance. If amounts are collected from the  
30 Housing Authority in advance of the Secretary incurring the  
31 actual costs, and the amount collected exceeds the costs actu-  
32 ally incurred by the Secretary to carry out the conveyance, the  
33 Secretary shall refund the excess amount to the Housing Au-  
34 thority.

35 (2) Amounts received as reimbursement under paragraph  
36 (1) shall be credited to the fund or account that was used to  
37 cover the costs incurred by the Secretary in carrying out the



1 conveyance. Amounts so credited shall be merged with amounts  
2 in such fund or account, and shall be available for the same  
3 purposes, and subject to the same conditions and limitations,  
4 as amounts in such fund or account.

5 (c) EXEMPTION FROM FEDERAL SCREENING.—The con-  
6 veyance authorized by subsection (a) is exempt from the re-  
7 quirement to screen the property for other Federal use pursu-  
8 ant to sections 2693 and 2696 of title 10, United States Code.

9 (d) DESCRIPTION OF PROPERTY.—The exact acreage and  
10 legal description of the property to be conveyed under sub-  
11 section (a) shall be determined by a survey satisfactory to the  
12 Secretary.

13 (e) ADDITIONAL TERMS AND CONDITIONS.—The Sec-  
14 retary may require such additional terms and conditions in con-  
15 nection with the conveyance under subsection (a) as the Sec-  
16 retary considers appropriate to protect the interests of the  
17 United States.

18 **SEC. 2842. LAND CONVEYANCE, MARINE CORPS LOGIS-**  
19 **TICS BASE, ALBANY, GEORGIA.**

20 (a) CONVEYANCE AUTHORIZED.—The Secretary of the  
21 Navy may convey through negotiated sale to the Preferred De-  
22 velopment Group Corporation, a corporation incorporated in  
23 the State of Georgia and authorized to do business in the State  
24 of Georgia (in this section referred to as the “Corporation”),  
25 all right, title, and interest of the United States in and to a  
26 parcel of real property, including any improvements thereon,  
27 consisting of approximately 10.44 acres located at Turner Field  
28 Road and McAdams Road in Albany, Georgia, for the purpose  
29 of permitting the Corporation to use the property for economic  
30 development.

31 (b) CONDITIONS OF CONVEYANCE.—The conveyance under  
32 subsection (a) shall be subject to the following conditions:

33 (1) That the Corporation accept the real property in  
34 its condition at the time of the conveyance, commonly  
35 known as conveyance “as is”.

36 (2) That the Corporation bear all costs related to the  
37 use and redevelopment of the real property.



1 (c) CONSIDERATION.—(1) As consideration for the convey-  
2 ance under subsection (a), the Corporation shall pay to the  
3 United States an amount, determined pursuant to negotiations  
4 between the Secretary and the Corporation and based upon the  
5 fair market value of the property (as determined pursuant to  
6 an appraisal acceptable to the Secretary), that is appropriate  
7 for the property.

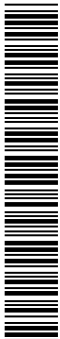
8 (2) The consideration received under this subsection shall  
9 be deposited in the Department of Defense Base Closure Ac-  
10 count 1990 established by section 2906 of the Defense Base  
11 Closure and Realignment Act of 1990 (part A of title XXIX  
12 of Public Law 101-510; 10 U.S.C. 2687 note).

13 (d) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Sec-  
14 retary may require the Corporation to cover costs to be in-  
15 curred by the Secretary, or to reimburse the Secretary for costs  
16 incurred by the Secretary, to carry out the conveyance under  
17 subsection (a), including survey costs, costs related to environ-  
18 mental documentation, and other administrative costs related  
19 to the conveyance. If amounts are collected from the Corpora-  
20 tion in advance of the Secretary incurring the actual costs, and  
21 the amount collected exceeds the costs actually incurred by the  
22 Secretary to carry out the conveyance, the Secretary shall re-  
23 fund the excess amount to the Corporation.

24 (2) Amounts received as reimbursement under paragraph  
25 (1) shall be credited to the fund or account that was used to  
26 cover the costs incurred by the Secretary in carrying out the  
27 conveyance. Amounts so credited shall be merged with amounts  
28 in such fund or account, and shall be available for the same  
29 purposes, and subject to the same conditions and limitations,  
30 as amounts in such fund or account.

31 (e) EXEMPTION FROM FEDERAL SCREENING.—The con-  
32 veyance under subsection (a) is exempt from the requirement  
33 to screen the property for other Federal use pursuant to sec-  
34 tions 2693 and 2696 of title 10, United States Code.

35 (f) DESCRIPTION OF PROPERTY.—The exact acreage and  
36 legal description of the real property to be conveyed under sub-



1 section (a) shall be determined by a survey satisfactory to the  
2 Secretary.

3 (g) ADDITIONAL TERMS AND CONDITIONS.—The Sec-  
4 retary may require such additional terms and conditions in con-  
5 nection with the conveyance under subsection (a) as the Sec-  
6 retary considers appropriate to protect the interests of the  
7 United States.

8 **SEC. 2843. LAND EXCHANGE, NAVAL AND MARINE CORPS**  
9 **RESERVE CENTER, PORTLAND, OREGON.**

10 (a) CONVEYANCE AUTHORIZED.—The Secretary of the  
11 Navy may convey to the United Parcel Service, Inc. (in this  
12 section referred to as “UPS”), all right, title, and interest of  
13 the United States in and to a parcel of real property, including  
14 improvements thereon, consisting of approximately 14 acres in  
15 Portland, Oregon, and comprising the Naval and Marine Corps  
16 Reserve Center for the purpose of facilitating the expansion of  
17 the UPS main distribution complex in Portland.

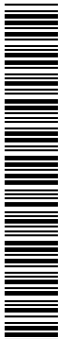
18 (b) PROPERTY RECEIVED IN EXCHANGE.—(1) As consid-  
19 eration for the conveyance under subsection (a), UPS shall—

20 (A) convey to the United States a parcel of real prop-  
21 erty determined to be suitable by the Secretary; and

22 (B) design, construct, and convey to the United States  
23 such replacement facilities on that property as the Sec-  
24 retary considers appropriate.

25 (2) The value of the real property and replacement facili-  
26 ties received by the Secretary under this subsection shall be at  
27 least equal to the fair market value of the real property con-  
28 veyed under subsection (a), as determined by the Secretary.

29 (c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Sec-  
30 retary may require UPS to cover costs to be incurred by the  
31 Secretary, or to reimburse the Secretary for costs incurred by  
32 the Secretary, to carry out the conveyance under subsection  
33 (a), including survey costs, costs related to environmental docu-  
34 mentation, relocation expenses incurred under subsection (b),  
35 and other administrative costs related to the conveyance. If  
36 amounts are collected from UPS in advance of the Secretary  
37 incurring the actual costs, and the amount collected exceeds the



1 costs actually incurred by the Secretary to carry out the con-  
2 veyance, the Secretary shall refund the excess amount to UPS.

3 (2) Amounts received as reimbursement under paragraph  
4 (1) shall be credited to the fund or account that was used to  
5 cover the costs incurred by the Secretary in carrying out the  
6 conveyance. Amounts so credited shall be merged with amounts  
7 in such fund or account, and shall be available for the same  
8 purposes, and subject to the same conditions and limitations,  
9 as amounts in such fund or account.

10 (d) CONDITION OF CONVEYANCE.—The Secretary may not  
11 make the conveyance authorized by subsection (a) until the  
12 Secretary determines that the replacement facilities required by  
13 subsection (b) are suitable and available for the relocation of  
14 the operations of the Naval and Marine Corps Reserve Center.

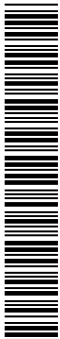
15 (e) EXEMPTION FROM FEDERAL SCREENING.—The con-  
16 veyance authorized by subsection (a) is exempt from the re-  
17 quirement to screen the property for other Federal use pursu-  
18 ant to sections 2693 and 2696 of title 10, United States Code.

19 (f) DESCRIPTION OF PROPERTY.—The exact acreage and  
20 legal description of the property to be conveyed under this sec-  
21 tion shall be determined by surveys satisfactory to the Sec-  
22 retary.

23 (g) ADDITIONAL TERMS AND CONDITIONS.—The Sec-  
24 retary may require such additional terms and conditions in con-  
25 nection with the conveyances under this section as the Sec-  
26 retary considers appropriate to protect the interests of the  
27 United States.

28 **SEC. 2844. LAND CONVEYANCE, NAVAL RESERVE CEN-**  
29 **TER, ORANGE, TEXAS.**

30 (a) CONVEYANCE AUTHORIZED.—The Secretary of the  
31 Navy may convey to the City of Orange, Texas (in this section  
32 referred to as the “City”), all right, title, and interest of the  
33 United States in and to a parcel of unimproved real property  
34 consisting of approximately 2.5 acres at Naval Reserve Center,  
35 Orange, Texas, for the purpose of permitting the City to use  
36 the property for road construction, economic development, and  
37 other public purposes.



1 (b) CONSIDERATION.—As consideration for the conveyance  
2 under subsection (a), the City shall provide the United States,  
3 whether by cash payment, in-kind contribution, or a combina-  
4 tion thereof, an amount that is not less than the fair market  
5 value, as determined by the Secretary, of the property conveyed  
6 under such subsection.

7 (c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Sec-  
8 retary may require the City to cover costs to be incurred by  
9 the Secretary, or to reimburse the Secretary for costs incurred  
10 by the Secretary, to carry out the conveyance under subsection  
11 (a), including survey costs, costs related to environmental docu-  
12 mentation, and other administrative costs related to the convey-  
13 ance. If amounts are collected from the City in advance of the  
14 Secretary incurring the actual costs, and the amount collected  
15 exceeds the costs actually incurred by the Secretary to carry  
16 out the conveyance, the Secretary shall refund the excess  
17 amount to the City.

18 (2) Amounts received as reimbursement under paragraph  
19 (1) shall be credited to the fund or account that was used to  
20 cover the costs incurred by the Secretary in carrying out the  
21 conveyance. Amounts so credited shall be merged with amounts  
22 in such fund or account, and shall be available for the same  
23 purposes, and subject to the same conditions and limitations,  
24 as amounts in such fund or account.

25 (d) EXEMPTION FROM FEDERAL SCREENING.—The con-  
26 veyance authorized by subsection (a) is exempt from the re-  
27 quirement to screen the property for other Federal use pursu-  
28 ant to sections 2693 and 2696 of title 10, United States Code.

29 (e) DESCRIPTION OF PROPERTY.—The exact acreage and  
30 legal description of the real property to be conveyed under sub-  
31 section (a) shall be determined by a survey satisfactory to the  
32 Secretary.

33 (f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary  
34 may require such additional terms and conditions in connection  
35 with the conveyance under subsection (a) as the Secretary con-  
36 siders appropriate to protect the interests of the United States.



28-25

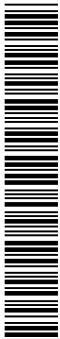
1 **SEC. 2845. LAND CONVEYANCE, PUGET SOUND NAVAL**  
2 **SHIPYARD, BREMERTON, WASHINGTON.**

3 (a) CONVEYANCE AUTHORIZED.—The Secretary of the  
4 Navy may convey to the City of Bremerton, Washington (in  
5 this section referred to as the “City”), all right, title, and inter-  
6 est of the United States in and to a parcel of real property,  
7 including any improvements thereon, consisting of approxi-  
8 mately 2.8 acres at the eastern end of the Puget Sound Naval  
9 Shipyard, Bremerton, Washington, immediately adjacent to the  
10 Bremerton Transportation Center.

11 (b) CONSIDERATION.—As consideration for the conveyance  
12 under subsection (a), the City, directly or through an agree-  
13 ment with another entity, shall replace administrative space on  
14 the parcel to be conveyed by renovating for new occupancy ap-  
15 proximately 7,500 square feet of existing space in Building 433  
16 at Naval Station, Bremerton, Washington, at no cost to the  
17 United States, in accordance with plans and specifications ac-  
18 ceptable to the Secretary. In lieu of any portion of such renova-  
19 tion, the Secretary may accept other facility alteration or repair  
20 of not less than equal value.

21 (c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Sec-  
22 retary shall require the City to cover costs to be incurred by  
23 the Secretary, or to reimburse the Secretary for costs incurred  
24 by the Secretary, to carry out the conveyance under subsection  
25 (a), including survey costs, costs related to environmental docu-  
26 mentation, and other administrative costs related to the convey-  
27 ance. If amounts are collected from the City in advance of the  
28 Secretary incurring the actual costs, and the amount collected  
29 exceeds the costs actually incurred by the Secretary to carry  
30 out the conveyance, the Secretary shall refund the excess  
31 amount to the City.

32 (2) Amounts received as reimbursement under paragraph  
33 (1) shall be credited to the fund or account that was used to  
34 cover the costs incurred by the Secretary in carrying out the  
35 conveyance. Amounts so credited shall be merged with amounts  
36 in such fund or account, and shall be available for the same



1 purposes, and subject to the same conditions and limitations,  
2 as amounts in such fund or account.

3 (d) ENVIRONMENTAL CONDITIONS.—The Secretary may  
4 use funds available in the Environmental Restoration Account,  
5 Navy to carry out the environmental remediation of the real  
6 property to be conveyed under subsection (a). Such environ-  
7 mental remediation shall be conducted in a manner consistent  
8 with section 120 of the Comprehensive Environmental Re-  
9 sponse, Compensation, and Liability Act of 1980 (42 U.S.C.  
10 9620), including the requirement to consider the anticipated fu-  
11 ture land use of the parcel.

12 (e) EXEMPTION FROM FEDERAL SCREENING.—The con-  
13 veyance authorized by subsection (a) is exempt from the re-  
14 quirement to screen the property for other Federal use pursu-  
15 ant to sections 2693 and 2696 of title 10, United States Code.

16 (f) DESCRIPTION OF PROPERTY.—The exact acreage and  
17 legal description of the real property to be conveyed under sub-  
18 section (a) shall be determined by a survey satisfactory to the  
19 Secretary.

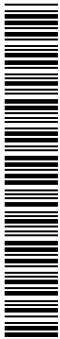
20 (g) ADDITIONAL TERMS AND CONDITIONS.—The Sec-  
21 retary may require such additional terms and conditions in con-  
22 nection with the conveyance under subsection (a) as the Sec-  
23 retary considers appropriate to protect the interests of the  
24 United States.

### 25 **PART III—AIR FORCE CONVEYANCES**

#### 26 **SEC. 2851. LAND EXCHANGE, MARCH AIR RESERVE** 27 **BASE, CALIFORNIA.**

28 (a) EXCHANGE AUTHORIZED.—(1) The Secretary of the  
29 Army may convey to the March Joint Powers Authority of  
30 Moreno Valley, California (in this section referred to as the  
31 “JPA”), all right, title, and interest of the United States in  
32 and to five parcels of real property, including any improve-  
33 ments thereon, located at March Air Reserve Base, California  
34 (former March Air Force Base), and consisting of approxi-  
35 mately 36.74 total acres.

36 (2) The Secretary of the Navy may convey to JPA all  
37 right, title, and interest of the United States in and to two par-





28-27

1 cels of real property, including any improvements thereon, lo-  
2 cated at March Air Reserve Base and consisting of approxi-  
3 mately 10.181 total acres.

4 (b) CONSIDERATION.—As consideration for the convey-  
5 ances under subsection (a), JPA shall release any interest it  
6 may have in two contiguous parcels of real property located at  
7 March Air Reserve Base and consisting of approximately 20  
8 acres and 28 acres, respectively.

9 (c) TRANSFER OF JURISDICTION.—The Secretary of the  
10 Air Force shall transfer, without reimbursement, to the admin-  
11 istrative jurisdiction of the Secretary of the Army the parcels  
12 of real property described in subsection (b).

13 (d) DESCRIPTION OF PROPERTY.—The exact acreage and  
14 legal description of the parcels of real property to be conveyed  
15 under this section shall be determined by surveys satisfactory  
16 to the Secretaries concerned.

17 (e) ADDITIONAL TERMS AND CONDITIONS.—The Secre-  
18 taries concerned may require such additional terms and condi-  
19 tions in connection with the conveyances under this section as  
20 the Secretaries consider appropriate to protect the interests of  
21 the United States.

22 **SEC. 2852. ACTIONS TO QUIET TITLE, FALLIN WATERS**  
23 **SUBDIVISION, EGLIN AIR FORCE BASE,**  
24 **FLORIDA.**

25 (a) AUTHORITY TO QUIET TITLE.—(1) Notwithstanding  
26 the restoration provisions under the heading “QUARTERMASTER  
27 CORPS” in the Second Deficiency Appropriation Act, 1940 (Act  
28 of June 27, 1940; chapter 437; 54 Stat. 655), the Secretary  
29 of the Air Force may take appropriate action to quiet title to  
30 tracts of land referred to in paragraph (2) on, at, adjacent to,  
31 adjoining, or near Eglin Air Force Base, Florida. The Sec-  
32 retary may take such action in order to resolve encroachments  
33 upon private property by the United States and upon property  
34 of the United States by private parties, which resulted from re-  
35 liance on inaccurate surveys.

36 (2) The tracts of land referred to in paragraph (1) are  
37 generally described as south of United States Highway 98 and



1 bisecting the north/south section line of sections 13 and 14,  
2 township 2 south, range 25 west, located in the platted subdivi-  
3 sion of Fallin Waters, Okaloosa County, Florida. The exact  
4 acreage and legal description of such tracts of land shall be de-  
5 termined by a survey satisfactory to the Secretary.

6 (b) AUTHORIZED ACTIONS.—In carrying out subsection  
7 (a), appropriate action by the Secretary may include any of the  
8 following:

9 (1) Disclaiming, on behalf of the United States, any  
10 intent by the United States to acquire by prescription any  
11 property at or in the vicinity of Eglin Air Force Base.

12 (2) Disposing of tracts of land owned by the United  
13 States.

14 (3) Acquiring tracts of land by purchase, by donation,  
15 or by exchange for tracts of land owned by the United  
16 States at or adjacent to Eglin Air Force Base.

17 (c) ACREAGE LIMITATIONS.—Individual tracts of land ac-  
18 quired or conveyed by the Secretary under paragraph (2) or (3)  
19 of subsection (b) may not exceed .10 acres. The total acreage  
20 so acquired may not exceed two acres.

21 (d) CONSIDERATION.—Any conveyance by the Secretary  
22 under this section may be made, at the discretion of the Sec-  
23 retary, without consideration, or by exchange for tracts of land  
24 adjoining Eglin Air Force Base in possession of private parties  
25 who mistakenly believed that they had acquired title to such  
26 tracts.

27 **SEC. 2853. MODIFICATION OF LAND CONVEYANCE,**  
28 **EGLIN AIR FORCE BASE, FLORIDA.**

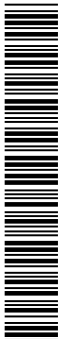
29 (a) MODIFICATION.—Public Law 91–347 (84 Stat. 447) is  
30 amended—

31 (1) in the first section, by inserting “or for other pub-  
32 lic purposes” before the period at the end; and

33 (2) in section 3(1)—

34 (A) by inserting “or for other public purposes”  
35 after “schools”; and

36 (B) by striking “such purpose” and inserting  
37 “such a purpose”.



(b) ALTERATION OF LEGAL INSTRUMENT.—The Secretary of the Air Force shall execute and file in the appropriate office an amended deed or other appropriate instrument effectuating the modification of the reversionary interest retained by the United States in connection with the conveyance made pursuant to Public Law 91–347.

#### **PART IV—OTHER CONVEYANCES**

##### **SEC. 2861. LAND CONVEYANCE, AIR FORCE AND ARMY EXCHANGE SERVICE PROPERTY, DALLAS, TEXAS.**

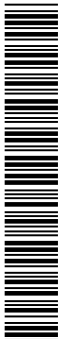
(a) CONVEYANCE AUTHORIZED.—The Secretary of Defense may authorize the Army and Air Force Exchange Service, a nonappropriated fund instrumentality of the United States, to convey, by sale, all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 7.5 acres located at 1515 Roundtable Drive in Dallas, Texas.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the purchaser shall pay the United States, in a single lump sum payment, an amount equal to the fair market value of the real property, determined pursuant to an appraisal acceptable to the Secretary.

(c) TREATMENT OF CONSIDERATION.—Section 574(a) of title 40, United States Code, shall apply to the consideration received under subsection (b), except that in the application of such section, all of the proceeds shall be credited to the Army and Air Force Exchange Service.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the purchaser.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.



1     **SEC. 2862. LAND CONVEYANCE, UMNAK ISLAND, ALASKA.**

2           (a) DEFINITIONS.—In this section—

3           (1) The term “Aleut Corporation” means the regional  
4           corporation established under the Alaska Native Claims  
5           Settlement Act (43 U.S.C. 1601 et seq.) for the region in  
6           which the Native Village of Nikolski, Alaska, is located.

7           (2) The term “Chaluka Corporation” means the vil-  
8           lage corporation established under the Alaska Native  
9           Claims Settlement Act (43 U.S.C. 1601 et seq.) for the  
10          Native Village of Nikolski, Alaska.

11          (3) The term “former Nikolski Radio Relay Site”  
12          means the portions of Tracts A, B, and C of Public Land  
13          Order 2374 that are surveyed as Tracts 37, 37A, 38, 39,  
14          39A, and 40 of township 83 south, range 136 west, Seward  
15          meridian, Alaska, and Tract B of United States Survey  
16          4904, Alaska, except—

17           (A) lots 1, 2, 5, 6, and 9 of Tract B of Amended  
18           United States Survey 4904; and

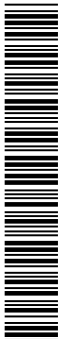
19           (B) the Nikolski powerhouse land.

20          (4) The term “Nikolski powerhouse land” means the  
21          parcel of land upon which is located the power generation  
22          building for supplying power to the Native Village of  
23          Nikolski, the boundaries of which are described generally as  
24          follows:

25           (A) Beginning at the point at which the southerly  
26           boundary of Tract 39 of township 83 south, range 136  
27           west, Seward meridian, Alaska, intersects the easterly  
28           boundary of the road that connects the Native Village  
29           of Nikolski and the airfield at Nikolski.

30           (B) Then meandering in a northeasterly direction  
31           along the easterly boundary of that road until the road  
32           intersects the westerly boundary of the road that con-  
33           nects Umnak Lake and the airfield.

34           (C) Then meandering in a southerly direction  
35           along the western boundary of that Umnak Lake road  
36           until that western boundary intersects the southern  
37           boundary of such Tract 39.



1 (D) Then proceeding eastward along the southern  
2 boundary of such Tract 39 to the beginning point.

3 (5) The term “Phase I lands” means Tract 39 of  
4 township 83 south, range 136 west, Seward meridian, ex-  
5 cluding the Nikolski powerhouse land.

6 (6) The term “Phase II lands” means the portion of  
7 the former Nikolski Radio Relay Site not conveyed as  
8 Phase I lands.

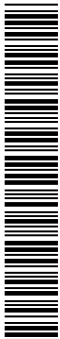
9 (7) The term “Public Land Order 2374” refers to the  
10 Public Land Order issued in 1961 under which the Depart-  
11 ment of the Interior withdrew public domain lands in the  
12 vicinity of the Native Village of Nikolski on Umnak Island,  
13 Alaska, for use by the Department of the Air Force as a  
14 radio relay site.

15 (b) OFFER OF CONVEYANCE.—Subject to the require-  
16 ments of this section, the Chaluka Corporation is hereby of-  
17 fered ownership of the surface estate in the former Nikolski  
18 Radio Relay Site on Umnak Island, Alaska, and the Aleut Cor-  
19 poration is hereby offered the subsurface estate of the former  
20 Nikolski Radio Relay Site, in exchange for relinquishment by  
21 the Chaluka Corporation and the Aleut Corporation of lot 1,  
22 section 14, township 81 south, range 133 west, Seward merid-  
23 ian, Alaska.

24 (c) ACCEPTANCE AND RELINQUISHMENT.—(1) The Sec-  
25 retary of the Interior shall convey the former Nikolski Radio  
26 Relay Site as provided in subsection (d), if the Chaluka Cor-  
27 poration takes the actions specified in paragraph (2) and the  
28 Aleut Corporation takes the actions specified in paragraph (3).

29 (2) As a condition for conveyance under subsection (d),  
30 the Chaluka Corporation shall notify the Secretary of the Inte-  
31 rior, within 180 days after the date of the enactment of this  
32 Act, that, by means of a legally binding resolution of its board  
33 of directors (accompanied by the written legal opinion of coun-  
34 sel as to the legal sufficiency of the board of directors’ action),  
35 the Chaluka Corporation—

36 (A) accepts the offer under subsection (b);



1 (B) confirms that the area surveyed by the Bureau of  
2 Land Management for the purpose of fulfilling the Chaluka  
3 Corporation's final entitlements under section 12(a) and  
4 (b) of the Alaska Native Claims Settlement Act (43 U.S.C.  
5 1611(a) and (b)), identified as Group Survey Number 773,  
6 accurately represents the Chaluka Corporation's final, ir-  
7 revocable Alaska Native Claims Settlement Act priorities  
8 and entitlements, unless any tract in Group Survey Num-  
9 ber 773 is ultimately not conveyed as the result of an ap-  
10 peal; and

11 (C) relinquishes lot 1, section 14, township 81 south,  
12 range 133 west, Seward meridian, Alaska, which will be  
13 charged against the Chaluka Corporation's final entitle-  
14 ment under section 12(b) of the Alaska Native Claims Set-  
15 tlement Act (43 U.S.C. 1611(b)).

16 (3) As a condition for the conveyance under subsection  
17 (d), the Aleut Corporation shall notify the Secretary of the In-  
18 terior, within 180 days after the date of the enactment of this  
19 Act, that, by means of a legally binding resolution of its board  
20 of directors (accompanied by the written legal opinion of coun-  
21 sel as to the legal sufficiency of the board of directors' action),  
22 the Aleut Corporation—

23 (A) accepts the offer under subsection (b); and

24 (B) relinquishes all rights to lot 1, section 14, town-  
25 ship 81 south, range 133 west, Seward meridian, Alaska.

26 (d) CONVEYANCE.—(1) Upon receipt from the Chaluka  
27 Corporation and from the Aleut Corporation of their accept-  
28 ances and relinquishments under subsection (c), the Secretary  
29 of the Interior shall convey to the Chaluka Corporation the sur-  
30 face estate, and to the Aleut Corporation the subsurface estate,  
31 of—

32 (A) Phase I lands as soon as practicable; and

33 (B) each parcel of Phase II lands upon completion by  
34 the Department of the Air Force of environmental restora-  
35 tion of Phase II lands in accordance with applicable law.

36 (2) Upon conveyance of a parcel of land under this sec-  
37 tion, the Secretary of the Interior shall terminate the cor-



1 responding portion of Public Land Order 2374 relating to that  
2 parcel. Upon conveyance of all Phase I and Phase II lands  
3 under this section, the Secretary of the Interior shall terminate  
4 all remaining portions of Public Land Order 2374 as it per-  
5 tains to Umnak Island, Alaska.

6 (e) ENVIRONMENTAL RESTORATION.—Nothing in this sec-  
7 tion affects the requirements and responsibilities of the United  
8 States under section 120(h) of the Comprehensive Environ-  
9 mental Response, Compensation, and Liability Act of 1980 (42  
10 U.S.C. 9620(h)) or other applicable law. If a hazardous sub-  
11 stance, as that term is defined in section 101 of such Act (42  
12 U.S.C. 9601), is discovered on the Phase I lands subsequent  
13 to transfer, but the hazardous substance was present on the  
14 lands before transfer and the presence of the hazardous sub-  
15 stance on the lands was not the result of actions by the  
16 Chaluka Corporation or the Aleut Corporation, the United  
17 States shall perform such response action as is required by  
18 such Act with regard to that hazardous substance.

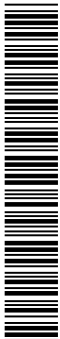
19 (f) TREATMENT AS ANCSA LANDS.—The conveyances  
20 made under subsection (d) shall be considered to be convey-  
21 ances under the Alaska Native Claims Settlement Act (43  
22 U.S.C. 1601 et seq.), and are subject to the provisions of that  
23 Act, except paragraphs (3) and (4) of section 14(c) and section  
24 17(b)(3) (43 U.S.C. 1613(c) and 1616(b)(3)).

25 (g) CONVEYANCE OF EXCLUDED TRACT B LOTS.—The  
26 Secretary of the Interior shall convey, without consideration, an  
27 estate in fee simple in—

28 (1) each of lots 1, 2, 5, 6, and 9 of Tract B of Amend-  
29 ed United States Survey 4904 that is the subject of an  
30 Aleutian Housing Authority mutual help occupancy agree-  
31 ment, to the Aleutian Housing Authority; and

32 (2) the remainder of such lots to the occupants of such  
33 lots as of the date of the enactment of this Act.

34 (h) CONVEYANCE OF NIKOLSKI POWERHOUSE LAND.—  
35 The Secretary of the Interior shall convey, without consider-  
36 ation, an estate in fee simple in the Nikolski powerhouse  
37 land—



(1) to the Indian Reorganization Act Tribal Government for the Native Village of Nikolski, upon completion of the environmental restoration referred to in subsection (k)(2), if after the restoration the powerhouse continues to be located on the Nikolski powerhouse land; or

(2) the surface estate to the Chaluka Corporation and the subsurface estate to the Aleut Corporation, if after the restoration, the Nikolski powerhouse is no longer located on the Nikolski powerhouse land.

(i) ACCESS.—(1) As a condition of the conveyance of land under subsection (d), the Chaluka Corporation shall permit the United States, and its agents, employees, and contractors, to have unrestricted access to the airfield at Nikolski in perpetuity for site investigation, restoration, remediation, and environmental monitoring of the former Nikolski Radio Relay Site and reasonable access to that airfield, and to other land conveyed under this section, for any activity associated with management of lands owned by the United States and for other governmental purposes without cost to the United States.

(2) The surface estate conveyed under subsection (d) shall be subject to the public's right of access over Hill and Beach Streets, located on Tract B of United States Survey 4904.

(j) SURVEY REQUIREMENTS.—The Bureau of Land Management is not required to conduct additional on-the-ground surveys as a result of conveyances under this section. The patent to the Chaluka Corporation may be based on protracted section lines and lotting where relinquishment under subsection (c)(2)(C) results in a change to the Chaluka Corporation's final boundaries. No additional monumentation is required to complete those final boundaries.

(k) AUTHORIZATION OF APPROPRIATIONS; TRANSFER OF FUNDS.—(1) There are authorized to be appropriated to the Department of the Interior and other appropriate agencies such sums as are necessary to carry out this section.

(2) Using the funds identified for Nikolski Power House Clean-up under Budget Activity 4 on page 116 of the Conference Report to accompany H.R. 2658 of the 108th Congress





28–35

1 (House Report 108–283), the Secretary of the Air Force shall  
2 make a direct lump sum payment, in an amount equal to  
3 \$1,700,000, to the fund for pollution cleanup managed by the  
4 Alaska Energy Authority for the purpose of assisting the Au-  
5 thority to perform environmental restoration of the Nikolski  
6 powerhouse land.

7 (l) TERMINATION.—This section (other than subsection  
8 (g)) shall cease to be effective if—

9 (1) either the Chaluka Corporation or the Aleut Cor-  
10 poration affirmatively rejects the offer under subsection  
11 (b); or

12 (2) the legally binding resolutions required by para-  
13 graphs (2) and (3) of subsection (c) are not submitted to  
14 the Secretary of the Interior before the end of the 180-day  
15 period specified in such paragraphs.

## 16 Subtitle E—Other Matters

### 17 SEC. 2871. AUTHORITY TO ACCEPT GUARANTEES WITH 18 GIFTS IN DEVELOPMENT OF MARINE CORPS 19 HERITAGE CENTER, MARINE CORPS BASE, 20 QUANTICO, VIRGINIA.

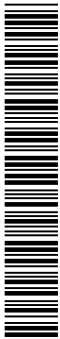
21 Section 2884 of the Military Construction Authorization  
22 Act for Fiscal Year 2001 (division B of the Floyd D. Spence  
23 National Defense Authorization Act for Fiscal Year 2001 (as  
24 enacted into law by Public Law 106–398; 114 Stat. 1654A–  
25 440)) is amended—

26 (1) by redesignating subsection (f) as subsection (g);  
27 and

28 (2) by inserting after subsection (e) the following new  
29 subsection (f):

30 “(f) ACCEPTANCE OF GUARANTEES WITH GIFTS.—(1)  
31 The authority available to the Secretary under section 6975 of  
32 title 10, United States Code, to accept a qualified guarantee for  
33 purposes of projects at the Naval Academy shall be available  
34 to the Secretary for the project to develop the Marine Corps  
35 Heritage Center.

36 “(2) The authority available to the Secretary under this  
37 subsection shall expire on December 31, 2006.”.



28–36

1   **SEC. 2872. REDESIGNATION OF YUMA TRAINING RANGE**  
2                   **COMPLEX AS BOB STUMP TRAINING RANGE**  
3                   **COMPLEX.**

4           The military aviation training facility located in south-  
5   western Arizona and southeastern California and known as the  
6   Yuma Training Range Complex shall be known and designated  
7   as the “Bob Stump Training Range Complex”. Any reference  
8   to such training range complex in any law, regulation, map,  
9   document, record, or other paper of the United States shall be  
10   considered to be a reference to the Bob Stump Training Range  
11   Complex.

12   **SEC. 2873. FEASIBILITY STUDY REGARDING CONVEY-**  
13                   **ANCE OF LOUISIANA ARMY AMMUNITION**  
14                   **PLANT, DOYLINE, LOUISIANA.**

15           (a) STUDY REQUIRED.—The Secretary of the Army shall  
16   conduct a study of—

17               (1) the feasibility of using the conveyance of the Lou-  
18               isiana Army Ammunition Plant in Doyline, Louisiana, as  
19               a model for a public-private partnership for the utilization  
20               and development of the Plant and similar parcels of real  
21               property; and

22               (2) the costs and benefits to the United States of such  
23               a conveyance.

24           (b) ELEMENTS OF STUDY.—In conducting the study, the  
25   Secretary shall consider the following:

26               (1) The feasibility and advisability of entering into ne-  
27               gotiations with the State of Louisiana or the Louisiana Na-  
28               tional Guard for the conveyance of the Louisiana Army  
29               Ammunition Plant.

30               (2) The means by which the conveyance of the Plant  
31               could—

32                       (A) facilitate the execution by the Department of  
33                       Defense of its national security mission; and

34                       (B) facilitate the continued use of the Plant by the  
35                       Louisiana National Guard and the execution by the  
36                       Louisiana National Guard of its national security mis-  
37                       sion.



1           (3) The evidence presented by the State of Louisiana  
2           of the means by which the conveyance of the Plant could  
3           benefit current and potential private sector and govern-  
4           mental tenants of the Plant and facilitate the contribution  
5           of such tenants to economic development in Northwestern  
6           Louisiana.

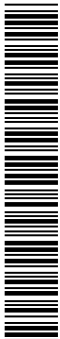
7           (4) The amount and type of consideration that is ap-  
8           propriate for the conveyance of the Plant.

9           (5) The evidence presented by the State of Louisiana  
10          of the extent to which the conveyance of the Plant to a  
11          public-private partnership will contribute to economic  
12          growth in the State of Louisiana, and in Northwestern  
13          Louisiana in particular.

14          (6) The value of any mineral rights in the lands of the  
15          Plant.

16          (7) The costs and benefits to the United States of  
17          sharing revenues and rents paid by current and potential  
18          tenants of the Plant as a result of the Armament Retooling  
19          and Manufacturing Support Program.

20          (c) REPORT.—Not later than 180 days after the date of  
21          the enactment of this Act, the Secretary shall submit to the  
22          Committee on Armed Services of the Senate and the Committee  
23          on Armed Services of the House of Representatives a report  
24          containing the results of the study and any other matters in  
25          light of the study that the Secretary considers appropriate.





31-1

1 **DIVISION C—DEPARTMENT OF EN-**  
2 **ERGY NATIONAL SECURITY AU-**  
3 **THORIZATIONS AND OTHER AU-**  
4 **THORIZATIONS**  
5 **TITLE XXXI—DEPARTMENT OF EN-**  
6 **ERGY NATIONAL SECURITY PRO-**  
7 **GRAMS**

**Subtitle A—National Security Programs Authorizations**

- Sec. 3101. National Nuclear Security Administration.
- Sec. 3102. Defense environmental management.
- Sec. 3103. Other defense activities.
- Sec. 3104. Defense nuclear waste disposal.
- Sec. 3105. Energy supply.

**Subtitle B—Program Authorizations, Restrictions, and Limitations**

- Sec. 3111. Termination of requirement for annual updates of long-term plan for nuclear weapons stockpile life extension program.
- Sec. 3112. Department of Energy project review groups not subject to Federal Advisory Committee Act by reason of inclusion of employees of Department of Energy management and operating contractors.
- Sec. 3113. Readiness posture for resumption by the United States of underground nuclear weapons tests.
- Sec. 3114. Technical base and facilities maintenance and recapitalization activities.
- Sec. 3115. Continuation of processing, treatment, and disposition of legacy nuclear materials.
- Sec. 3116. Repeal of prohibition on research and development of low-yield nuclear weapons.
- Sec. 3117. Requirement for specific authorization of Congress for commencement of engineering development phase or subsequent phase of Robust Nuclear Earth Penetrator.

**Subtitle C—Proliferation Matters**

- Sec. 3121. Semiannual financial reports on defense nuclear nonproliferation programs.
- Sec. 3122. Report on reduction of excessive unobligated or unexpended balances for defense nuclear nonproliferation activities.
- Sec. 3123. Study and report relating to weapons-grade uranium and plutonium of the independent states of the former Soviet Union.
- Sec. 3124. Authority to use international nuclear materials protection and cooperation program funds outside the former Soviet Union.
- Sec. 3125. Requirement for on-site managers.

**Subtitle D—Other Matters**

- Sec. 3131. Performance of personnel security investigations of certain Department of Energy and Nuclear Regulatory Commission employees in sensitive programs.
- Sec. 3132. Policy of Department of Energy regarding future defense environmental management matters.



Sec. 3133. Inclusion in 2005 stockpile stewardship plan of certain information relating to stockpile stewardship criteria.

Sec. 3134. Progress reports on Energy Employees Occupational Illness Compensation Program.

Sec. 3135. Report on integration activities of Department of Defense and Department of Energy with respect to Robust Nuclear Earth Penetrator.

**Subtitle E—Consolidation of National Security Provisions**

Sec. 3141. Transfer and consolidation of recurring and general provisions on Department of Energy national security programs.

**Subtitle A—National Security  
Programs Authorizations**

**SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2004 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of \$8,877,347,000, to be allocated as follows:

(1) For weapons activities, \$6,434,772,000.

(2) For defense nuclear nonproliferation activities, \$1,332,195,000.

(3) For naval reactors, \$768,400,000.

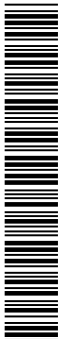
(4) For the Office of the Administrator for Nuclear Security, \$341,980,000.

(b) AUTHORIZATION OF NEW PLANT PROJECTS.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out, for weapons activities, the following new plant projects:

Project 04-D-101, test capabilities revitalization, Sandia National Laboratories, Albuquerque, New Mexico, \$36,450,000.

Project 04-D-102, exterior communications infrastructure modernization, Sandia National Laboratories, Albuquerque, New Mexico, \$20,000,000.

Project 04-D-103, project engineering and design, various locations, \$2,000,000.



## 31-3

1 Project 04-D-125, chemistry and metallurgy facility  
2 replacement project, Los Alamos National Laboratory, Los  
3 Alamos, New Mexico, \$20,500,000.

4 Project 04-D-126, Building 12-44 production cells  
5 upgrade, Pantex plant, Amarillo, Texas, \$8,780,000.

6 Project 04-D-127, cleaning and loading modifications,  
7 Savannah River Site, Aiken, South Carolina, \$2,750,000.

8 Project 04-D-128, TA-18 Mission relocation project,  
9 Los Alamos National Laboratory, Los Alamos, New Mex-  
10 ico, \$8,820,000.

11 Project 04-D-203, facilities and infrastructure recapi-  
12 talization program, project engineering and design, various  
13 locations, \$3,719,000.

14 Project 03-D-102, SM-43 replacement, Los Alamos  
15 National Laboratory, Los Alamos, New Mexico,  
16 \$38,000,000.

17 **SEC. 3102. DEFENSE ENVIRONMENTAL MANAGEMENT.**

18 (a) AUTHORIZATION OF APPROPRIATIONS.—Funds are  
19 hereby authorized to be appropriated to the Department of En-  
20 ergy for fiscal year 2004 for environmental management activi-  
21 ties in carrying out programs necessary for national security in  
22 the amount of \$6,809,814,000, to be allocated as follows:

23 (1) For defense site acceleration completion,  
24 \$5,814,635,000.

25 (2) For defense environmental services, \$995,179,000.

26 (b) AUTHORIZATION OF NEW PLANT PROJECTS.—From  
27 funds referred to in subsection (a) that are available for car-  
28 rying out plant projects, the Secretary of Energy may carry  
29 out, for defense site acceleration completion, the following new  
30 plant projects:

31 Project 04-D-408, glass waste storage building #2,  
32 Savannah River Site, Aiken, South Carolina, \$20,259,000.

33 Project 04-D-414, project engineering and design,  
34 various locations, \$23,500,000.

35 Project 04-D-423, 3013 container surveillance capa-  
36 bility in 235-F, Savannah River Site, Aiken, South Caro-  
37 lina, \$1,134,000.



31-4

**SEC. 3103. OTHER DEFENSE ACTIVITIES.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2004 for other defense activities in carrying out programs necessary for national security in the amount of \$489,059,000.

**SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2004 for defense nuclear waste disposal for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of \$392,500,000.

**SEC. 3105. ENERGY SUPPLY.**

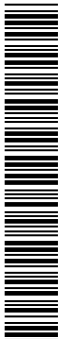
Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2004 for energy supply activities in carrying out programs necessary for national security in the amount of \$110,473,000.

**Subtitle B—Program Authorizations,  
Restrictions, and Limitations****SEC. 3111. TERMINATION OF REQUIREMENT FOR ANNUAL UPDATES OF LONG-TERM PLAN FOR NUCLEAR WEAPONS STOCKPILE LIFE EXTENSION PROGRAM.**

Effective December 31, 2004, section 3133 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 926; 42 U.S.C. 2121 note), as transferred and redesignated as section 4204 of the Atomic Energy Defense Act by section 3141(e)(5) of this Act, is further amended by striking subsections (c) through (f).

**SEC. 3112. DEPARTMENT OF ENERGY PROJECT REVIEW GROUPS NOT SUBJECT TO FEDERAL ADVISORY COMMITTEE ACT BY REASON OF INCLUSION OF EMPLOYEES OF DEPARTMENT OF ENERGY MANAGEMENT AND OPERATING CONTRACTORS.**

An officer or employee of a management and operating contractor of the Department of Energy, when serving as a member of a group reviewing or advising on matters related to any one or more management and operating contracts of the





1 Department, shall be treated as an officer or employee of the  
2 Department for purposes of determining whether the group is  
3 an advisory committee within the meaning of section 3 of the  
4 Federal Advisory Committee Act (5 U.S.C. App.).

5 **SEC. 3113. READINESS POSTURE FOR RESUMPTION BY**  
6 **THE UNITED STATES OF UNDERGROUND NU-**  
7 **CLEAR WEAPONS TESTS.**

8 (a) READINESS POSTURE REQUIRED.—Commencing not  
9 later than October 1, 2006, the Secretary of Energy shall  
10 achieve, and thereafter maintain, a readiness posture of not  
11 more than 18 months for resumption by the United States of  
12 underground tests of nuclear weapons.

13 (b) DESCRIPTION OF REQUIREMENT.—For purposes of  
14 this section, a readiness posture of not more than 18 months  
15 for resumption by the United States of underground tests of  
16 nuclear weapons is achieved when the Department of Energy  
17 has the capability to resume such tests, if directed by the Presi-  
18 dent to resume such tests, not later than 18 months after the  
19 date on which the President so directs.

20 **SEC. 3114. TECHNICAL BASE AND FACILITIES MAINTENANCE AND RECAPITALIZATION ACTIVITIES.**  
21

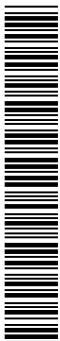
22 (a) DEADLINE FOR INCLUSION OF PROJECTS IN FACILI-  
23 TIES AND INFRASTRUCTURE RECAPITALIZATION PROGRAM.—

24 (1) The Administrator for Nuclear Security shall complete the  
25 selection of projects for inclusion in the Facilities and Infra-  
26 structure Recapitalization Program of the National Nuclear Se-  
27 curity Administration not later than December 31, 2004.

28 (2) No project may be included in the Facilities and Infra-  
29 structure Recapitalization Program after December 31, 2004,  
30 unless such project has been selected for inclusion in that pro-  
31 gram as of that date.

32 (b) TERMINATION OF FACILITIES AND INFRASTRUCTURE  
33 RECAPITALIZATION PROGRAM.—The Administrator shall termi-  
34 nate the Facilities and Infrastructure Recapitalization Program  
35 not later than September 30, 2011.

36 (c) READINESS IN TECHNICAL BASE AND FACILITIES  
37 PROGRAM.—(1) Not later than September 30, 2004, the Ad-



1 administrator shall submit to the congressional defense commit-  
2 tees a report setting forth guidelines on the conduct of the  
3 Readiness in Technical Base and Facilities program of the Na-  
4 tional Nuclear Security Administration.

5 (2) Such guidelines shall include the following:

6 (A) Criteria for the inclusion of projects in the pro-  
7 gram, and for establishing priorities among projects in-  
8 cluded in the program.

9 (B) Mechanisms for the management of facilities  
10 under the program, including maintenance activities re-  
11 ferred to in subparagraph (C).

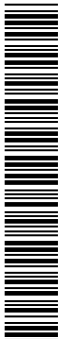
12 (C) A description of the scope of maintenance activi-  
13 ties under the program, including recurring maintenance,  
14 construction of facilities, recapitalization of facilities, and  
15 decontamination and decommissioning of facilities.

16 (3) Such guidelines shall ensure that the maintenance ac-  
17 tivities referred to in paragraph (2)(C) are carried out in a  
18 timely and efficient manner designed to avoid maintenance  
19 backlogs.

20 (d) OPERATIONS OF FACILITIES PROGRAM.—(1) The Ad-  
21 ministrator shall continue the Operations of Facilities program  
22 of the National Nuclear Security Administration as a subpro-  
23 gram within the Readiness in Technical Base and Facilities  
24 program.

25 (2) The Deputy Administrator for Defense Programs shall  
26 designate a single manager to be responsible for overseeing the  
27 operations of the Operations of Facilities subprogram within  
28 the Readiness in Technical Base and Facilities program.

29 (3) For fiscal year 2005, and for each fiscal year there-  
30 after, the Secretary of Energy shall submit to the congressional  
31 defense committees, together with the budget justification ma-  
32 terials submitted to Congress in support of the National Nu-  
33 clear Security Administration budget for that fiscal year (as  
34 submitted with the budget of the President under section  
35 1105(a) of title 31, United States Code), a separate statement  
36 of the amounts requested for such fiscal year for each element  
37 of the Operations of Facilities subprogram, as follows:



- 1 (A) Maintenance.
- 2 (B) Facilities management and support.
- 3 (C) Utilities.
- 4 (D) Environment, safety, and health.
- 5 (E) Each other element of the subprogram.

6 **SEC. 3115. CONTINUATION OF PROCESSING, TREAT-**  
7 **MENT, AND DISPOSITION OF LEGACY NU-**  
8 **CLEAR MATERIALS.**

9 (a) CONTINUATION OF H-CANYON FACILITY.—Subsection  
10 (a) of section 3137 of the Floyd D. Spence National Defense  
11 Authorization Act for Fiscal Year 2001 (as enacted into law by  
12 Public Law 106-398; 114 Stat. 1654A-460) is amended—

- 13 (1) by striking “F-canyon and H-canyon facilities”  
14 and inserting “H-canyon facility”; and
- 15 (2) by striking “such facilities” and inserting “such  
16 facility”.

17 (b) MODIFICATION OF LIMITATION ON USE OF FUNDS  
18 FOR DECOMMISSIONING F-CANYON FACILITY.—Subsection (b)  
19 of such section is amended—

- 20 (1) by striking “and the Defense Nuclear Facilities  
21 Safety Board” and all that follows through “House of Rep-  
22 resentatives” and inserting “submits to the Committee on  
23 Armed Services of the Senate and the Committee on Armed  
24 Services of the House of Representatives, and the Defense  
25 Nuclear Facilities Safety Board,”; and

- 26 (2) by striking “the following:” and all that follows  
27 and inserting “a report setting forth—

28 “(1) an assessment whether or not all materials  
29 present in the F-canyon facility as of the date of the report  
30 that required stabilization have been safely stabilized as of  
31 that date;

32 “(2) an assessment whether or not the requirements  
33 applicable to the F-canyon facility to meet the future needs  
34 of the United States for fissile materials disposition can be  
35 met through full use of the H-canyon facility at the Savan-  
36 nah River Site; and



“(3) if it appears that one or more of the requirements described in paragraph (2) cannot be met through full use of the H-canyon facility—

“(A) an identification by the Secretary of each such requirement that cannot be met through full use of the H-canyon facility; and

“(B) for each requirement so identified, the reasons why such requirement cannot be met through full use of the H-canyon facility and a description of the alternative capability for fissile materials disposition that is needed to meet such requirement.”.

(c) REPEAL OF SUPERSEDED PLAN REQUIREMENT.—Subsection (c) of such section is repealed.

**SEC. 3116. REPEAL OF PROHIBITION ON RESEARCH AND DEVELOPMENT OF LOW-YIELD NUCLEAR WEAPONS.**

(a) REPEAL.—Section 3136 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1946; 42 U.S.C. 2121 note) is repealed.

(b) CONSTRUCTION.—Nothing in the repeal made by subsection (a) shall be construed as authorizing the testing, acquisition, or deployment of a low-yield nuclear weapon.

(c) LIMITATION.—The Secretary of Energy may not commence the engineering development phase, or any subsequent phase, of a low-yield nuclear weapon unless specifically authorized by Congress.

(d) REPORT.—(1) Not later than March 1, 2004, the Secretary of State, the Secretary of Defense and the Secretary of Energy shall jointly submit to Congress a report assessing whether or not the repeal of section 3136 of the National Defense Authorization Act for Fiscal Year 1994 will affect the ability of the United States to achieve its nonproliferation objectives and whether or not any changes in programs and activities would be required to achieve those objectives.

(2) The report shall be submitted in unclassified form, but may include a classified annex if necessary.



**SEC. 3117. REQUIREMENT FOR SPECIFIC AUTHORIZATION OF CONGRESS FOR COMMENCEMENT OF ENGINEERING DEVELOPMENT PHASE OR SUBSEQUENT PHASE OF ROBUST NUCLEAR EARTH PENETRATOR.**

The Secretary of Energy may not commence the engineering development phase (phase 6.3) of the nuclear weapons development process, or any subsequent phase, of a Robust Nuclear Earth Penetrator weapon unless specifically authorized by Congress.

**Subtitle C—Proliferation Matters**

**SEC. 3121. SEMIANNUAL FINANCIAL REPORTS ON DEFENSE NUCLEAR NONPROLIFERATION PROGRAMS.**

(a) IN GENERAL.—Subtitle D of the National Nuclear Security Administration Act is amended by inserting after section 3253 (50 U.S.C. 2453) the following new section:

**“SEC. 3254. SEMIANNUAL FINANCIAL REPORTS ON DEFENSE NUCLEAR NONPROLIFERATION PROGRAMS.**

“(a) SEMIANNUAL REPORTS REQUIRED.—The Administrator shall submit to the Committees on Armed Services of the Senate and the House of Representatives a semiannual report on the amounts available for the defense nuclear nonproliferation programs of the Administration. Each such report shall cover a half of a fiscal year (in this section referred to as a ‘fiscal half’) and shall be submitted not later than 30 days after the end of that fiscal half.

“(b) CONTENTS.—Each report for a fiscal half shall, for each such defense nuclear nonproliferation program for which amounts are available for the fiscal year that includes that fiscal half, set forth the following:

“(1) The aggregate amount available for such program as of the beginning of such fiscal half and, within such amount, the uncommitted balances, the unobligated balances, and the unexpended balances.

“(2) The aggregate amount newly made available for such program during such fiscal half and, within such



31-10

1 amount, the amount made available by appropriations, by  
2 transfers, by reprogrammings, and by other means.

3 “(3) The aggregate amount available for such program  
4 as of the end of such fiscal half and, within such amount,  
5 the uncommitted balances, the unobligated balances, and  
6 the unexpended balances.”.

7 (b) FIRST REPORT.—The first report required to be sub-  
8 mitted by section 3254 of the National Nuclear Security Ad-  
9 ministration Act (as added by subsection (a)) shall be the re-  
10 port covering the first half of fiscal year 2004.

11 **SEC. 3122. REPORT ON REDUCTION OF EXCESSIVE UN-**  
12 **OBLIGATED OR UNEXPENDED BALANCES**  
13 **FOR DEFENSE NUCLEAR NONPROLIFERA-**  
14 **TION ACTIVITIES.**

15 (a) CONTINGENT REQUIREMENT FOR REPORT.—If as of  
16 September 30, 2004, the aggregate amount unobligated, or ob-  
17 ligated but not expended, for defense nuclear nonproliferation  
18 activities from amounts appropriated for such activities in fiscal  
19 year 2004 exceeds an amount equal to 20 percent of the aggre-  
20 gate amount appropriated for such activities in fiscal year  
21 2004, the Administrator for Nuclear Security shall submit to  
22 the Committees on Armed Services of the Senate and the  
23 House of Representatives a report containing an aggressive  
24 plan to provide for the timely expenditure of amounts remain-  
25 ing unobligated, or obligated but not expended.

26 (b) SUBMITTAL DATE.—If required to be submitted under  
27 subsection (a), the submittal date for the report under that  
28 subsection shall be November 30, 2004.

29 **SEC. 3123. STUDY AND REPORT RELATING TO WEAPONS-**  
30 **GRADE URANIUM AND PLUTONIUM OF THE**  
31 **INDEPENDENT STATES OF THE FORMER SO-**  
32 **VIET UNION.**

33 (a) STUDY REQUIRED.—The Secretary of Energy shall  
34 carry out a study on the feasibility, costs, and benefits of—

35 (1) purchasing, from the independent states of the  
36 former Soviet Union, weapons-grade uranium and pluto-  
37 nium excess to the defense needs of those states; and



1 (2) safeguarding the uranium and plutonium so pur-  
2 chased until rendered unusable for nuclear weapons.

3 (b) REPORT.—Not later than one year after the date of  
4 the enactment of this Act, the Secretary shall submit to Con-  
5 gress a report on the results of the study required by sub-  
6 section (a).

7 **SEC. 3124. AUTHORITY TO USE INTERNATIONAL NU-**  
8 **CLEAR MATERIALS PROTECTION AND CO-**  
9 **OPERATION PROGRAM FUNDS OUTSIDE THE**  
10 **FORMER SOVIET UNION.**

11 (a) AUTHORITY.—Subject to the provisions of this section,  
12 the President may obligate and expend international nuclear  
13 materials protection and cooperation program funds for a fiscal  
14 year, and any such funds for a fiscal year before such fiscal  
15 year that remain available for obligation, for a defense nuclear  
16 nonproliferation project or activity outside the states of the  
17 former Soviet Union if the President determines each of the  
18 following:

19 (1) That such project or activity will—

20 (A)(i) assist the United States in the resolution of  
21 a critical emerging proliferation threat; or

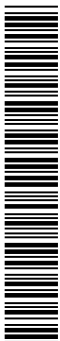
22 (ii) permit the United States to take advantage of  
23 opportunities to achieve long-standing nonproliferation  
24 goals; and

25 (B) be completed in a short period of time.

26 (2) That the Department of Energy is the entity of  
27 the Federal Government that is most capable of carrying  
28 out such project or activity.

29 (b) SCOPE OF AUTHORITY.—The authority in subsection  
30 (a) to obligate and expend funds for a project or activity in-  
31 cludes authority to provide equipment, goods, and services for  
32 such project or activity utilizing such funds, but does not in-  
33 clude authority to provide cash directly to such project or activ-  
34 ity.

35 (c) LIMITATION ON TOTAL AMOUNT OF OBLIGATION.—  
36 The amount that may be obligated in a fiscal year under the  
37 authority in subsection (a) may not exceed \$50,000,000.



(d) LIMITATION ON AVAILABILITY OF FUNDS.—(1) The President may not obligate funds for a project or activity under the authority in subsection (a) until the President makes each determination specified in that subsection with respect to such project or activity.

(2) Not later than 10 days after obligating funds under the authority in subsection (a) for a project or activity, the President shall notify Congress in writing of the determinations made under paragraph (1) with respect to such project or activity, together with—

(A) a justification for such determinations; and

(B) a description of the scope and duration of such project or activity.

(e) ADDITIONAL LIMITATIONS AND REQUIREMENTS.—Except as otherwise provided in subsections (a) and (b), the exercise of the authority in subsection (a) shall be subject to any requirement or limitation under another provision of law as follows:

(1) Any requirement for prior notice or other reports to Congress on the use of international nuclear materials protection and cooperation program funds or on international nuclear materials protection and cooperation program projects or activities.

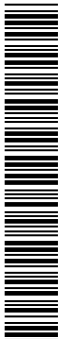
(2) Any limitation on the obligation or expenditure of international nuclear materials protection and cooperation program funds.

(3) Any limitation on international nuclear materials protection and cooperation program projects or activities.

(f) FUNDS.—As used in this section, the term “international nuclear materials protection and cooperation program funds” means the funds appropriated pursuant to the authorization of appropriations in section 3101(a)(2) for such program.

**SEC. 3125. REQUIREMENT FOR ON-SITE MANAGERS.**

(a) ON-SITE MANAGER REQUIREMENT.—Before obligating any defense nuclear nonproliferation funds for a project described in subsection (b), the Secretary of Energy shall appoint





## 31-13

1 one on-site manager for that project. The manager shall be ap-  
2 pointed from among employees of the Federal Government.

3 (b) PROJECTS COVERED.—Subsection (a) applies to a  
4 project—

5 (1) to be located in a state of the former Soviet Union;

6 (2) which involves dismantlement, destruction, or stor-  
7 age facilities, or construction of a facility; and

8 (3) with respect to which the total contribution by the  
9 Department of Energy is expected to exceed \$50,000,000.

10 (c) DUTIES OF ON-SITE MANAGER.—The on-site manager  
11 appointed under subsection (a) shall—

12 (1) develop, in cooperation with representatives from  
13 governments of countries participating in the project, a list  
14 of those steps or activities critical to achieving the project's  
15 disarmament or nonproliferation goals;

16 (2) establish a schedule for completing those steps or  
17 activities;

18 (3) meet with all participants to seek assurances that  
19 those steps or activities are being completed on schedule;  
20 and

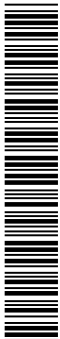
21 (4) suspend United States participation in a project  
22 when a non-United States participant fails to complete a  
23 scheduled step or activity on time, unless directed by the  
24 Secretary of Energy to resume United States participation.

25 (d) AUTHORITY TO MANAGE MORE THAN ONE  
26 PROJECT.—(1) Subject to paragraph (2), an employee of the  
27 Federal Government may serve as on-site manager for more  
28 than one project, including projects at different locations.

29 (2) If such an employee serves as on-site manager for  
30 more than one project in a fiscal year, the total cost of the  
31 projects for that fiscal year may not exceed \$150,000,000.

32 (e) STEPS OR ACTIVITIES.—Steps or activities referred to  
33 in subsection (c)(1) are those activities that, if not completed,  
34 will prevent a project from achieving its disarmament or non-  
35 proliferation goals, including, at a minimum, the following:

36 (1) Identification and acquisition of permits (as de-  
37 fined in subsection (g)).



1 (2) Verification that the items, substances, or capabili-  
2 ties to be dismantled, secured, or otherwise modified are  
3 available for dismantlement, securing, or modification.

4 (3) Timely provision of financial, personnel, manage-  
5 ment, transportation, and other resources.

6 (f) NOTIFICATION TO CONGRESS.—In any case in which  
7 the Secretary of Energy directs an on-site manager to resume  
8 United States participation in a project under subsection  
9 (c)(4), the Secretary shall concurrently notify Congress of such  
10 direction.

11 (g) PERMIT DEFINED.—In this section, the term “permit”  
12 means any local or national permit for development, general  
13 construction, environmental, land use, or other purposes that is  
14 required in the state of the former Soviet Union in which the  
15 project is being or is proposed to be carried out.

16 (h) EFFECTIVE DATE.—This section shall take effect six  
17 months after the date of the enactment of this Act.

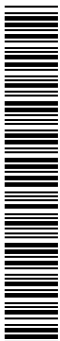
## 18 Subtitle D—Other Matters

### 19 SEC. 3131. PERFORMANCE OF PERSONNEL SECURITY IN- 20 VESTIGATIONS OF CERTAIN DEPARTMENT 21 OF ENERGY AND NUCLEAR REGULATORY 22 COMMISSION EMPLOYEES IN SENSITIVE 23 PROGRAMS.

24 (a) PERFORMANCE BY FBI AT DIRECTION OF DOE OR  
25 NRC.—Subsection f. of section 145 of the Atomic Energy Act  
26 of 1954 (42 U.S.C. 2165) is amended to read as follows:

27 “f. (1) Notwithstanding the provisions of subsections a.,  
28 b., and c. of this section, but subject to subsection e. of this  
29 section, a majority of the members of the Commission may di-  
30 rect that an investigation required by such provisions on an in-  
31 dividual described in paragraph (2) be carried out by the Fed-  
32 eral Bureau of Investigation rather than by the Civil Service  
33 Commission.

34 “(2) An individual described in this paragraph is an indi-  
35 vidual who is employed—



1           “(A) in a program certified by a majority of the mem-  
2       bers of the Commission to be of a high degree of impor-  
3       tance or sensitivity; or

4           “(B) in any other specific position certified by a ma-  
5       jority of the members of the Commission to be of a high  
6       degree of importance or sensitivity.”.

7       (b) REPEAL OF REQUIREMENT FOR PERFORMANCE BY  
8       FBI FOR PERSONNEL SECURITY AND ASSURANCE PRO-  
9       GRAMS.—Subsection e.(2) of such section is amended by strik-  
10      ing “or a Personnel Security and Assurance Program”.

11      **SEC. 3132. POLICY OF DEPARTMENT OF ENERGY RE-**  
12                      **GARDING FUTURE DEFENSE ENVIRON-**  
13                      **MENTAL MANAGEMENT MATTERS.**

14           (a) POLICY REQUIRED.—(1) Commencing not later than  
15      October 1, 2005, the Secretary of Energy shall have in effect  
16      a policy for carrying out future defense environmental manage-  
17      ment matters of the Department of Energy. The policy shall  
18      specify each officer within the Department with responsibilities  
19      for carrying out that policy and, for each such officer, the na-  
20      ture and extent of those responsibilities.

21           (2) In paragraph (1), the term “future defense environ-  
22      mental management matter” means any environmental cleanup  
23      project, decontamination and decommissioning project, waste  
24      management project, or related activity that arises out of the  
25      activities of the Department in carrying out programs nec-  
26      essary for national security and is to be commenced after the  
27      date of the enactment of this Act. However, such term does not  
28      include any such project or activity the responsibility for which  
29      has been assigned, as of the date of the enactment of this Act,  
30      to the Environmental Management program of the Depart-  
31      ment.

32           (b) REFLECTION IN BUDGET.—For fiscal year 2006 and  
33      each fiscal year thereafter, the Secretary shall ensure that the  
34      budget justification materials submitted to Congress in support  
35      of the Department of Energy budget for such fiscal year (as  
36      submitted with the budget of the President under section



## 31-16

1 1105(a) of title 31, United States Code) reflect the policy re-  
2 quired by subsection (a).

3 (c) CONSULTATION.—The Secretary shall carry out this  
4 section in consultation with the Administrator for Nuclear Se-  
5 curity and the Under Secretary of Energy for Energy, Science,  
6 and Environment.

7 (d) REPORT.—The Secretary shall include with the budget  
8 justification materials submitted to Congress in support of the  
9 Department of Energy budget for fiscal year 2005 (as sub-  
10 mitted with the budget of the President under section 1105(a)  
11 of title 31, United States Code) a report on the policy that the  
12 Secretary plans to have in effect under subsection (a) as of Oc-  
13 tober 1, 2005. The report shall specify the officers and respon-  
14 sibilities referred to in subsection (a).

15 **SEC. 3133. INCLUSION IN 2005 STOCKPILE STEWARDSHIP**  
16 **PLAN OF CERTAIN INFORMATION RELATING**  
17 **TO STOCKPILE STEWARDSHIP CRITERIA.**

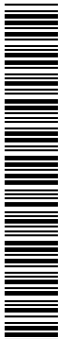
18 (a) INCLUSION IN 2005 STOCKPILE STEWARDSHIP  
19 PLAN.—In submitting to Congress the updated version of the  
20 2005 stockpile stewardship plan, the Secretary of Energy shall  
21 include the matters specified in subsection (b).

22 (b) MATTERS INCLUDED.—The matters referred to in sub-  
23 section (a) are the following:

24 (1) An update of any information or criteria described  
25 in the report on stockpile stewardship criteria submitted  
26 under section 4202 of the Atomic Energy Defense Act (as  
27 transferred and redesignated by section 3161(e)(3) of this  
28 Act).

29 (2) A description of any additional information identi-  
30 fied, or criteria established, on matters covered by such sec-  
31 tion 4202 during the period beginning on the date of the  
32 submittal of the report under such section 4202 and ending  
33 on the date of the submittal of the updated version of the  
34 plan under subsection (a) of this section.

35 (3) For each science-based tool developed by the De-  
36 partment of Energy during such period—



31-17

(A) a description of the relationship of such science-based tool to the collection of information needed to determine that the nuclear weapons stockpile is safe and reliable; and

(B) a description of the criteria for judging whether or not such science-based tool provides for the collection of such information.

(c) 2005 STOCKPILE STEWARDSHIP PLAN DEFINED.—In this section, the term “2005 stockpile stewardship plan” means the updated version of the plan for maintaining the nuclear weapons stockpile developed under section 4203 of the Atomic Energy Defense Act (as transferred and redesignated by section 3161(e)(4) of this Act) that is required to be submitted to Congress not later than March 15, 2005.

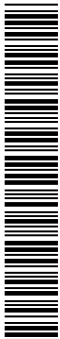
**SEC. 3134. PROGRESS REPORTS ON ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM.**

(a) REPORT ON ACCESS TO INFORMATION FOR PERFORMANCE OF RADIATION DOSE RECONSTRUCTIONS.—(1) Not later than 90 days after the date of the enactment of this Act, the National Institute for Occupational Safety and Health shall submit to Congress a report on the ability of the Institute to obtain, in a timely, accurate, and complete manner, information necessary for the purpose of carrying out radiation dose reconstructions under the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384 et seq.), including information requested from any element of the Department of Energy.

(2) The report shall include the following:

(A) An identification of each matter adversely affecting the ability of the Institute to obtain information described in paragraph (1) in a timely, accurate, and complete manner.

(B) For each facility with respect to which the Institute is carrying out one or more dose reconstructions described in paragraph (1)—



1 (i) a specification of the total number of claims re-  
2 quiring dose reconstruction;

3 (ii) a specification of the number of claims for  
4 which dose reconstruction has been adversely affected  
5 by any matter identified under paragraph (1); and

6 (iii) a specification of the number of claims requir-  
7 ing dose reconstruction for which, because of any mat-  
8 ter identified under paragraph (1), dose reconstruction  
9 has not been completed within 150 days after the date  
10 on which the Secretary of Labor submitted the claim  
11 to the Secretary of Health and Human Services.

12 (b) REPORT ON DENIAL OF CLAIMS.—(1) Not later than  
13 90 days after the date of the enactment of this Act, the Sec-  
14 retary of Labor shall submit to Congress a report on the denial  
15 of claims under the Energy Employees Occupational Illness  
16 Compensation Program Act of 2000 as of the date of such re-  
17 port.

18 (2) The report shall include for each facility with respect  
19 to which the Secretary has received one or more claims under  
20 that Act the following:

21 (A) The number of claims received with respect to  
22 such facility that have been denied, including the percent-  
23 age of total number of claims received with respect to such  
24 facility that have been denied.

25 (B) The reasons for the denial of such claims, includ-  
26 ing the number of claims denied for each such reason.

27 **SEC. 3135. REPORT ON INTEGRATION ACTIVITIES OF DE-**  
28 **PARTMENT OF DEFENSE AND DEPARTMENT**  
29 **OF ENERGY WITH RESPECT TO ROBUST NU-**  
30 **CLEAR EARTH PENETRATOR.**

31 Section 1032 of the Bob Stump National Defense Author-  
32 ization Act for Fiscal Year 2003 (Public Law 107-314; 116  
33 Stat. 2643; 10 U.S.C. 2358 note) is amended by adding at the  
34 end the following new subsection:

35 “(e) INTEGRATION ACTIVITIES IN FISCAL YEAR 2003  
36 WITH RESPECT TO RNEP.—The report under subsection (a)  
37 that is due on April 1, 2004, shall include, in addition to the



elements specified in subsection (b), a description of the integration and interoperability of the research and development, procurement, and other activities undertaken during fiscal year 2003 by the Department of Defense and the Department of Energy with respect to the Robust Nuclear Earth Penetrator.”.

## **Subtitle E—Consolidation of National Security Provisions**

### **SEC. 3141. TRANSFER AND CONSOLIDATION OF RECURRING AND GENERAL PROVISIONS ON DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS.**

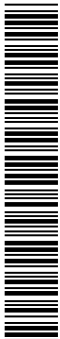
#### **(a) PURPOSE.—**

(1) IN GENERAL.—The purpose of this section is to assemble together, without substantive amendment but with technical and conforming amendments of a non-substantive nature, recurring and general provisions of law on Department of Energy national security programs that remain in force in order to consolidate and organize such provisions of law into a single Act intended to comprise general provisions of law on such programs.

(2) CONSTRUCTION OF TRANSFERS.—The transfer of a provision of law by this section shall not be construed as amending, altering, or otherwise modifying the substantive effect of such provision.

(3) TREATMENT OF SATISFIED REQUIREMENTS.—Any requirement in a provision of law transferred under this section (including a requirement that an amendment to law be executed) that has been fully satisfied in accordance with the terms of such provision of law as of the date of transfer under this section shall be treated as so fully satisfied, and shall not be treated as being revived solely by reason of transfer under this section.

(4) CLASSIFICATION.—The provisions of the Atomic Energy Defense Act, as amended by this section, shall be classified to the United States Code as a new chapter of title 50, United States Code.



31–20

1 (b) DIVISION HEADING.—The Bob Stump National De-  
2 fense Authorization Act for Fiscal Year 2003 (Public Law  
3 107–314) is amended by adding at the end the following new  
4 division heading:

5 **“DIVISION D—ATOMIC ENERGY**  
6 **DEFENSE PROVISIONS”.**

7 (c) SHORT TITLE; TABLE OF CONTENTS; DEFINITION.—

8 (1) SHORT TITLE; TABLE OF CONTENTS.—Section  
9 3601 of the Atomic Energy Defense Act (title XXXVI of  
10 Public Law 107–314; 116 Stat. 2756) is—

11 (A) transferred to the end of the Bob Stump Na-  
12 tional Defense Authorization Act for Fiscal Year 2003;

13 (B) redesignated as section 4001;

14 (C) inserted after the heading for division D of the  
15 Bob Stump National Defense Authorization Act for  
16 Fiscal Year 2003, as added by subsection (b); and

17 (D) amended—

18 (i) by amending the heading to read as fol-  
19 lows:

20 **“SEC. 4001. SHORT TITLE; TABLE OF CONTENTS.”;**

21 (ii) by striking “This title” and inserting “(a)  
22 SHORT TITLE.—This division”; and

23 (iii) by adding at the end the following:

24 “(b) TABLE OF CONTENTS.—The table of contents for  
25 this division is as follows:

**“DIVISION D—ATOMIC ENERGY DEFENSE**  
**PROVISIONS**

“Sec. 4001. Short title; table of contents.

“Sec. 4002. Definition.

**“TITLE XLI—ORGANIZATIONAL MATTERS**

“Sec. 4101. Naval Nuclear Propulsion Program.

“Sec. 4102. Management structure for nuclear weapons production facili-  
ties and nuclear weapons laboratories.

“Sec. 4103. Restriction on licensing requirement for certain defense activi-  
ties and facilities.





**“TITLE XLII—NUCLEAR WEAPONS STOCKPILE MATTERS****“Subtitle A—Stockpile Stewardship and Weapons  
Production**

- “Sec. 4201. Stockpile stewardship program.
- “Sec. 4202. Report on stockpile stewardship criteria.
- “Sec. 4203. Plan for stewardship, management, and certification of warheads in the nuclear weapons stockpile.
- “Sec. 4204. Nuclear weapons stockpile life extension program.
- “Sec. 4205. Annual assessments and reports to the President and Congress regarding the condition of the United States nuclear weapons stockpile.
- “Sec. 4206. Form of certifications regarding the safety or reliability of the nuclear weapons stockpile.
- “Sec. 4207. Nuclear test ban readiness program.
- “Sec. 4208. Study on nuclear test readiness postures.
- “Sec. 4209. Requirements for specific request for new or modified nuclear weapons.
- “Sec. 4210. Limitation on underground nuclear weapons tests.
- “Sec. 4211. Testing of nuclear weapons.
- “Sec. 4212. Manufacturing infrastructure for refabrication and certification of nuclear weapons stockpile.
- “Sec. 4213. Reports on critical difficulties at nuclear weapons laboratories and nuclear weapons production plants.

**“Subtitle B—Tritium**

- “Sec. 4231. Tritium production program.
- “Sec. 4232. Tritium recycling.
- “Sec. 4233. Tritium production.
- “Sec. 4234. Modernization and consolidation of tritium recycling facilities.
- “Sec. 4235. Procedures for meeting tritium production requirements.

**“TITLE XLIII—PROLIFERATION MATTERS**

- “Sec. 4301. International cooperative stockpile stewardship.
- “Sec. 4302. Nonproliferation initiatives and activities.
- “Sec. 4303. Annual report on status of Nuclear Materials Protection, Control, and Accounting Program.
- “Sec. 4304. Nuclear Cities Initiative.
- “Sec. 4305. Authority to conduct program relating to fissile materials.
- “Sec. 4306. Disposition of weapons-usable plutonium at Savannah River Site.
- “Sec. 4306A. Disposition of surplus defense plutonium at Savannah River Site, Aiken, South Carolina.

**“TITLE XLIV—ENVIRONMENTAL RESTORATION AND  
WASTE MANAGEMENT MATTERS****“Subtitle A—Environmental Restoration and Waste  
Management**

- “Sec. 4401. Defense Environmental Restoration and Waste Management Account.
- “Sec. 4402. Requirement to develop future use plans for environmental management program.
- “Sec. 4403. Integrated fissile materials management plan.
- “Sec. 4404. Baseline environmental management reports.
- “Sec. 4405. Accelerated schedule for environmental restoration and waste management activities.
- “Sec. 4406. Defense waste cleanup technology program.



## 31-22

“Sec. 4407. Report on environmental restoration expenditures.

“Sec. 4408. Public participation in planning for environmental restoration and waste management at defense nuclear facilities.

**“Subtitle B—Closure of Facilities**

“Sec. 4421. Projects to accelerate closure activities at defense nuclear facilities.

“Sec. 4422. Reports in connection with permanent closures of Department of Energy defense nuclear facilities.

**“Subtitle C—Privatization**

“Sec. 4431. Defense environmental management privatization projects.

**“Subtitle D—Hanford Reservation, Washington**

“Sec. 4441. Safety measures for waste tanks at Hanford nuclear reservation.

“Sec. 4442. Hanford waste tank cleanup program reforms.

“Sec. 4443. River Protection Project.

“Sec. 4444. Funding for termination costs of River Protection Project, Richland, Washington.

**“Subtitle E—Savannah River Site, South Carolina**

“Sec. 4451. Accelerated schedule for isolating high-level nuclear waste at the defense waste processing facility, Savannah River Site.

“Sec. 4452. Multi-year plan for clean-up.

“Sec. 4453. Continuation of processing, treatment, and disposal of legacy nuclear materials.

“Sec. 4453A. Continuation of processing, treatment, and disposition of legacy nuclear materials.

“Sec. 4453B. Continuation of processing, treatment, and disposition of legacy nuclear materials.

“Sec. 4453C. Continuation of processing, treatment, and disposal of legacy nuclear materials.

“Sec. 4453D. Continuation of processing, treatment, and disposal of legacy nuclear materials.

“Sec. 4454. Limitation on use of funds for decommissioning F-canyon facility.

**“TITLE XLV—SAFEGUARDS AND SECURITY MATTERS**

**“Subtitle A—Safeguards and Security**

“Sec. 4501. Prohibition on international inspections of Department of Energy facilities unless protection of Restricted Data is certified.

“Sec. 4502. Restrictions on access to national laboratories by foreign visitors from sensitive countries.

“Sec. 4503. Background investigations of certain personnel at Department of Energy facilities.

“Sec. 4504. Department of Energy counterintelligence polygraph program.

“Sec. 4504A. Counterintelligence polygraph program.

“Sec. 4505. Notice to congressional committees of certain security and counterintelligence failures within nuclear energy defense programs.

“Sec. 4506. Submittal of annual report on status of security functions at nuclear weapons facilities.

“Sec. 4507. Report on counterintelligence and security practices at national laboratories.

“Sec. 4508. Report on security vulnerabilities of national laboratory computers.



## 31-23

**“Subtitle B—Classified Information**

- “Sec. 4521. Review of certain documents before declassification and release.
- “Sec. 4522. Protection against inadvertent release of Restricted Data and Formerly Restricted Data.
- “Sec. 4523. Supplement to plan for declassification of Restricted Data and Formerly Restricted Data.
- “Sec. 4524. Protection of classified information during laboratory-to-laboratory exchanges.
- “Sec. 4525. Identification in budget materials of amounts for declassification activities and limitation on expenditures for such activities.

**“Subtitle C—Emergency Response**

- “Sec. 4541. Responsibility for Defense Programs Emergency Response Program.

**“TITLE XLVI—PERSONNEL MATTERS****“Subtitle A—Personnel Management**

- “Sec. 4601. Authority for appointment of certain scientific, engineering, and technical personnel.
- “Sec. 4602. Whistleblower protection program.
- “Sec. 4603. Employee incentives for employees at closure project facilities.
- “Sec. 4604. Department of Energy defense nuclear facilities workforce restructuring plan.
- “Sec. 4605. Authority to provide certificate of commendation to Department of Energy and contractor employees for exemplary service in stockpile stewardship and security.

**“Subtitle B—Education and Training**

- “Sec. 4621. Executive management training in the Department of Energy.
- “Sec. 4622. Stockpile stewardship recruitment and training program.
- “Sec. 4623. Fellowship program for development of skills critical to the Department of Energy nuclear weapons complex.

**“Subtitle C—Worker Safety**

- “Sec. 4641. Worker protection at nuclear weapons facilities.
- “Sec. 4642. Safety oversight and enforcement at defense nuclear facilities.
- “Sec. 4643. Program to monitor Department of Energy workers exposed to hazardous and radioactive substances.
- “Sec. 4644. Programs for persons who may have been exposed to radiation released from Hanford nuclear reservation.

**“TITLE XLVII—BUDGET AND FINANCIAL MANAGEMENT MATTERS****“Subtitle A—Recurring National Security Authorization Provisions**

- “Sec. 4701. Definitions.
- “Sec. 4702. Reprogramming.
- “Sec. 4703. Minor construction projects.
- “Sec. 4704. Limits on construction projects.
- “Sec. 4705. Fund transfer authority.
- “Sec. 4706. Conceptual and construction design.
- “Sec. 4707. Authority for emergency planning, design, and construction activities.
- “Sec. 4708. Scope of authority to carry out plant projects.
- “Sec. 4709. Availability of funds.
- “Sec. 4710. Transfer of defense environmental management funds.



## 31–24

“Sec. 4711. Transfer of weapons activities funds.

“Sec. 4712. Funds available for all national security programs of the Department of Energy.

**“Subtitle B—Penalties**

“Sec. 4721. Restriction on use of funds to pay penalties under environmental laws.

“Sec. 4722. Restriction on use of funds to pay penalties under Clean Air Act.

**“Subtitle C—Other Matters**

“Sec. 4731. Single request for authorization of appropriations for common defense and security programs.

**“TITLE XLVIII—ADMINISTRATIVE MATTERS**

**“Subtitle A—Contracts**

“Sec. 4801. Costs not allowed under covered contracts.

“Sec. 4802. Prohibition and report on bonuses to contractors operating defense nuclear facilities.

“Sec. 4803. Contractor liability for injury or loss of property arising out of atomic weapons testing programs.

**“Subtitle B—Research and Development**

“Sec. 4811. Laboratory-directed research and development programs.

“Sec. 4812. Limitations on use of funds for laboratory directed research and development purposes.

“Sec. 4812A. Limitation on use of funds for certain research and development purposes.

“Sec. 4813. Critical technology partnerships.

“Sec. 4814. University-based research collaboration program.

**“Subtitle C—Facilities Management**

“Sec. 4831. Transfers of real property at certain Department of Energy facilities.

“Sec. 4832. Engineering and manufacturing research, development, and demonstration by plant managers of certain nuclear weapons production plants.

“Sec. 4833. Pilot program relating to use of proceeds of disposal or utilization of certain Department of Energy assets.

**“Subtitle D—Other Matters**

“Sec. 4851. Semiannual reports on local impact assistance.

“Sec. 4852. Payment of costs of operation and maintenance of infrastructure at Nevada Test Site.”.

1           (2) DEFINITION.—Division D of the Bob Stump Na-  
2           tional Defense Authorization Act for Fiscal Year 2003, as  
3           amended by this section, is further amended by adding at  
4           the end the following new section:

5           **“SEC. 4002. DEFINITION.**

6           “In this division, the term ‘congressional defense commit-  
7           tees’ means—

8           “(1) the Committee on Armed Services and the Com-  
9           mittee on Appropriations of the Senate; and



31–25

“(2) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.”.

(d) ORGANIZATIONAL MATTERS.—

(1) TITLE HEADING.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following:

**“TITLE XLI—ORGANIZATIONAL MATTERS”.**

(2) NAVAL NUCLEAR PROPULSION PROGRAM.—Section 1634 of the Department of Defense Authorization Act, 1985 (Public Law 98–525; 98 Stat. 2649) is—

(A) transferred to title XLI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) inserted after the title heading for such title, as so added; and

(C) amended—

(i) by striking the section heading and inserting the following new section heading:

**“SEC. 4101. NAVAL NUCLEAR PROPULSION PROGRAM.”;**

and

(ii) by striking “SEC. 1634.”.

(3) MANAGEMENT STRUCTURE FOR FACILITIES AND LABORATORIES.—Section 3140 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2833) is—

(A) transferred to title XLI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4102;

(C) inserted after section 4101, as added by paragraph (2); and



31-26

(D) amended in subsection (d)(2), by striking  
“120 days after the date of the enactment of this Act,”  
and inserting “January 21, 1997,”.

(4) RESTRICTION ON LICENSING REQUIREMENTS FOR  
CERTAIN ACTIVITIES AND FACILITIES.—Section 210 of the  
Department of Energy National Security and Military Ap-  
plications of Nuclear Energy Authorization Act of 1981  
(Public Law 96-540; 94 Stat. 3202) is—

(A) transferred to title XLI of the Bob Stump Na-  
tional Defense Authorization Act for Fiscal Year 2003,  
as amended by this subsection;

(B) inserted after section 4102, as added by para-  
graph (3); and

(C) amended—

(i) by striking the section heading and insert-  
ing the following new section heading:

**“SEC. 4103. RESTRICTION ON LICENSING REQUIREMENT  
FOR CERTAIN DEFENSE ACTIVITIES AND FA-  
CILITIES.”;**

(ii) by striking “SEC. 210.”; and

(iii) by striking “this or any other Act” and  
inserting “the Department of Energy National Se-  
curity and Military Applications of Nuclear Energy  
Authorization Act of 1981 (Public Law 96-540) or  
any other Act”.

(e) NUCLEAR WEAPONS STOCKPILE MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump Na-  
tional Defense Authorization Act for Fiscal Year 2003, as  
amended by this section, is further amended by adding at  
the end the following new headings:

**“TITLE XLII—NUCLEAR WEAPONS  
STOCKPILE MATTERS  
“Subtitle A—Stockpile Stewardship  
and Weapons Production”.**

(2) STOCKPILE STEWARDSHIP PROGRAM.—Section  
3138 of the National Defense Authorization Act for Fiscal  
Year 1994 (Public Law 103-160; 107 Stat. 1946), as



## 31–27

1 amended by section 3152(e) of the National Defense Au-  
2 thorization Act for Fiscal Year 1998 (Public Law 105–85;  
3 111 Stat. 2042), is—

4 (A) transferred to title XLII of the Bob Stump  
5 National Defense Authorization Act for Fiscal Year  
6 2003, as added by paragraph (1);

7 (B) redesignated as section 4201; and

8 (C) inserted after the heading for subtitle A of  
9 such title, as so added.

10 (3) STOCKPILE STEWARDSHIP CRITERIA.—Section  
11 3158 of the Strom Thurmond National Defense Authoriza-  
12 tion Act for Fiscal Year 1999 (Public Law 105–261; 112  
13 Stat. 2257), as amended, is—

14 (A) transferred to title XLII of the Bob Stump  
15 National Defense Authorization Act for Fiscal Year  
16 2003, as amended by this subsection;

17 (B) redesignated as section 4202; and

18 (C) inserted after section 4201, as added by para-  
19 graph (2).

20 (4) PLAN FOR STEWARDSHIP, MANAGEMENT, AND  
21 CERTIFICATION OF WARHEADS IN STOCKPILE.—Section  
22 3151 of the National Defense Authorization Act for Fiscal  
23 Year 1998 (Public Law 105–85; 111 Stat. 2041) is—

24 (A) transferred to title XLII of the Bob Stump  
25 National Defense Authorization Act for Fiscal Year  
26 2003, as amended by this subsection;

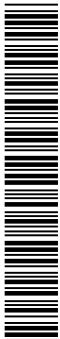
27 (B) redesignated as section 4203; and

28 (C) inserted after section 4202, as added by para-  
29 graph (3).

30 (5) STOCKPILE LIFE EXTENSION PROGRAM.—Section  
31 3133 of the National Defense Authorization Act for Fiscal  
32 Year 2000 (Public Law 106–65; 113 Stat. 926) is—

33 (A) transferred to title XLII of the Bob Stump  
34 National Defense Authorization Act for Fiscal Year  
35 2003, as amended by this subsection;

36 (B) redesignated as section 4204;



## 31–28

1 (C) inserted after section 4203, as added by para-  
2 graph (4); and

3 (D) amended in subsection (c)(1) by striking “the  
4 date of the enactment of this Act” and inserting “Octo-  
5 ber 5, 1999”.

6 (6) ANNUAL ASSESSMENTS AND REPORTS ON CONDI-  
7 TION OF STOCKPILE.—Section 3141 of the Bob Stump Na-  
8 tional Defense Authorization Act for Fiscal Year 2003  
9 (Public Law 107–314; 116 Stat. 2730) is—

10 (A) transferred to title XLII of such Act, as  
11 amended by this subsection;

12 (B) redesignated as section 4205;

13 (C) inserted after section 4204, as added by para-  
14 graph (5); and

15 (D) amended in subsection (d)(3)(B) by striking  
16 “section 3137 of the National Defense Authorization  
17 Act for Fiscal Year 1996 (42 U.S.C. 2121 note)” and  
18 inserting “section 4212”.

19 (7) FORM OF CERTAIN CERTIFICATIONS REGARDING  
20 STOCKPILE.—Section 3194 of the Floyd D. Spence Na-  
21 tional Defense Authorization Act for Fiscal Year 2001 (as  
22 enacted into law by Public Law 106–398; 114 Stat.  
23 1654A–481) is—

24 (A) transferred to title XLII of the Bob Stump  
25 National Defense Authorization Act for Fiscal Year  
26 2003, as amended by this subsection;

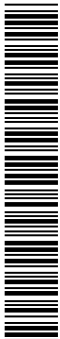
27 (B) redesignated as section 4206; and

28 (C) inserted after section 4205, as added by para-  
29 graph (6).

30 (8) NUCLEAR TEST BAN READINESS PROGRAM.—Sec-  
31 tion 1436 of the National Defense Authorization Act, Fis-  
32 cal Year 1989 (Public Law 100–456; 102 Stat. 2075) is—

33 (A) transferred to title XLII of the Bob Stump  
34 National Defense Authorization Act for Fiscal Year  
35 2003, as amended by this subsection;

36 (B) redesignated as section 4207;





## 31–29

1 (C) inserted after section 4206, as added by para-  
2 graph (7); and

3 (D) amended in the section heading by adding a  
4 period at the end.

5 (9) STUDY ON NUCLEAR TEST READINESS POS-  
6 TURES.—Section 3152 of the National Defense Authoriza-  
7 tion Act for Fiscal Year 1996 (Public Law 104–106; 110  
8 Stat. 623), as amended by section 3192 of the Floyd D.  
9 Spence National Defense Authorization Act for Fiscal Year  
10 2001 (as enacted into law by Public Law 106–398; 114  
11 Stat. 1654A–480), is—

12 (A) transferred to title XLII of the Bob Stump  
13 National Defense Authorization Act for Fiscal Year  
14 2003, as amended by this subsection;

15 (B) redesignated as section 4208; and

16 (C) inserted after section 4207, as added by para-  
17 graph (8).

18 (10) REQUIREMENTS FOR REQUESTS FOR NEW OR  
19 MODIFIED NUCLEAR WEAPONS.—Section 3143 of the Bob  
20 Stump National Defense Authorization Act for Fiscal Year  
21 2003 (Public Law 107–314; 116 Stat. 2733) is—

22 (A) transferred to title XLII of such Act, as  
23 amended by this subsection;

24 (B) redesignated as section 4209; and

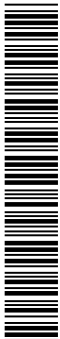
25 (C) inserted after section 4208, as added by para-  
26 graph (9).

27 (11) LIMITATION ON UNDERGROUND NUCLEAR WEAP-  
28 ONS TESTS.—Subsection (f) of section 507 of the Energy  
29 and Water Development Appropriations Act, 1993 (Public  
30 Law 102–337; 106 Stat. 1345) is—

31 (A) transferred to title XLII of the Bob Stump  
32 National Defense Authorization Act for Fiscal Year  
33 2003, as amended by this subsection;

34 (B) inserted after section 4209, as added by para-  
35 graph (10); and

36 (C) amended—



31–30

1 (i) by inserting before the text the following  
2 new section heading:

3 **“SEC. 4210. LIMITATION ON UNDERGROUND NUCLEAR**  
4 **WEAPONS TESTS.”;**

5 and

6 (ii) by striking “(f)”.

7 (12) TESTING OF NUCLEAR WEAPONS.—Section 3137  
8 of the National Defense Authorization Act for Fiscal Year  
9 1994 (Public Law 103–160; 107 Stat. 1946) is—

10 (A) transferred to title XLII of the Bob Stump  
11 National Defense Authorization Act for Fiscal Year  
12 2003, as amended by this subsection;

13 (B) redesignated as section 4211;

14 (C) inserted after section 4210, as added by para-  
15 graph (11); and

16 (D) amended—

17 (i) in subsection (a), by inserting “of the Na-  
18 tional Defense Authorization Act for Fiscal Year  
19 1994 (Public Law 103–160)” after “section  
20 3101(a)(2)”; and

21 (ii) in subsection (b), by striking “this Act”  
22 and inserting “the National Defense Authorization  
23 Act for Fiscal Year 1994”.

24 (13) MANUFACTURING INFRASTRUCTURE FOR STOCK-  
25 PILE.—Section 3137 of the National Defense Authorization  
26 Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat.  
27 620), as amended by section 3132 of the National Defense  
28 Authorization Act for Fiscal Year 1997 (Public Law 104–  
29 201; 110 Stat. 2829), is—

30 (A) transferred to title XLII of the Bob Stump  
31 National Defense Authorization Act for Fiscal Year  
32 2003, as amended by this subsection;

33 (B) redesignated as section 4212;

34 (C) inserted after section 4211, as added by para-  
35 graph (12); and



31-31

1 (D) amended in subsection (d) by inserting “of the  
2 National Defense Authorization Act for Fiscal Year  
3 1996 (Public Law 104-106)” after “section 3101(b)”.

4 (14) REPORTS ON CRITICAL DIFFICULTIES AT LAB-  
5 ORATORIES AND PLANTS.—Section 3159 of the National  
6 Defense Authorization Act for Fiscal Year 1997 (Public  
7 Law 104-201; 110 Stat. 2842), as amended by section  
8 1305 of the National Defense Authorization Act for Fiscal  
9 Year 1998 (Public Law 105-85; 111 Stat. 1954) and sec-  
10 tion 3163 of the National Defense Authorization Act for  
11 Fiscal Year 2000 (Public Law 106-65; 113 Stat. 944),  
12 is—

13 (A) transferred to title XLII of the Bob Stump  
14 National Defense Authorization Act for Fiscal Year  
15 2003, as amended by this subsection;

16 (B) redesignated as section 4213; and

17 (C) inserted after section 4212, as added by para-  
18 graph (13).

19 (15) SUBTITLE HEADING ON TRITIUM.—Title XLII of  
20 the Bob Stump National Defense Authorization Act for  
21 Fiscal Year 2003, as amended by this subsection, is further  
22 amended by adding at the end the following new subtitle  
23 heading:

24 **“Subtitle B—Tritium”.**

25 (16) TRITIUM PRODUCTION PROGRAM.—Section 3133  
26 of the National Defense Authorization Act for Fiscal Year  
27 1996 (Public Law 104-106; 110 Stat. 618) is—

28 (A) transferred to title XLII of the Bob Stump  
29 National Defense Authorization Act for Fiscal Year  
30 2003, as amended by this subsection;

31 (B) redesignated as section 4231;

32 (C) inserted after the heading for subtitle B of  
33 such title XLII, as added by paragraph (15); and

34 (D) amended—



## 31–32

(i) by striking “the date of the enactment of this Act” each place it appears and inserting “February 10, 1996”; and

(ii) in subsection (b), by inserting “of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106)” after “section 3101”.

(17) TRITIUM RECYCLING.—Section 3136 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 620) is—

(A) transferred to title XLII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4232; and

(C) inserted after section 4231, as added by paragraph (16).

(18) TRITIUM PRODUCTION.—Subsections (c) and (d) of section 3133 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2830) are—

(A) transferred to title XLII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4232, as added by paragraph (17); and

(C) amended—

(i) by inserting before the text the following new section heading:

**“SEC. 4233. TRITIUM PRODUCTION.”;**

(ii) by redesignating such subsections as subsections (a) and (b), respectively; and

(iii) in subsection (a), as so redesignated, by inserting “of Energy” after “The Secretary”.

(19) MODERNIZATION AND CONSOLIDATION OF TRITIUM RECYCLING FACILITIES.—Section 3134 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2830) is—



## 31–33

(A) transferred to title XLII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4234;

(C) inserted after section 4233, as added by paragraph (18); and

(D) amended in subsection (b) by inserting “of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201)” after “section 3101”.

(20) PROCEDURES FOR MEETING TRITIUM PRODUCTION REQUIREMENTS.—Section 3134 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 927) is—

(A) transferred to title XLII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4235; and

(C) inserted after section 4234, as added by paragraph (19).

(f) PROLIFERATION MATTERS.—

(1) TITLE HEADING.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new title heading:

**“TITLE XLIII—PROLIFERATION  
MATTERS”.**

(2) INTERNATIONAL COOPERATIVE STOCKPILE STEWARDSHIP.—Section 3133 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2036), as amended by sections 1069 and 3131 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2136, 2246), is—

(A) transferred to title XLIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);



## 31–34

1 (B) redesignated as section 4301;  
2 (C) inserted after the heading for such title, as so  
3 added; and

4 (D) amended in subsection (b)(3) by striking “this  
5 Act” and inserting “the National Defense Authoriza-  
6 tion Act for Fiscal Year 1998 (Public Law 105–85)”.

7 (3) NONPROLIFERATION INITIATIVES AND ACTIVI-  
8 TIES.—Section 3136 of the National Defense Authorization  
9 Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat.  
10 927) is—

11 (A) transferred to title XLIII of the Bob Stump  
12 National Defense Authorization Act for Fiscal Year  
13 2003, as amended by this subsection;

14 (B) redesignated as section 4302;

15 (C) inserted after section 4301, as added by para-  
16 graph (2); and

17 (D) amended in subsection (b)(1) by striking “this  
18 title” and inserting “title XXXI of the National De-  
19 fense Authorization Act for Fiscal Year 2000 (Public  
20 Law 106–65)”.

21 (4) ANNUAL REPORT ON MATERIALS PROTECTION,  
22 CONTROL, AND ACCOUNTING PROGRAM.—Section 3171 of  
23 the Floyd D. Spence National Defense Authorization Act  
24 for Fiscal Year 2001 (as enacted into law by Public Law  
25 106–398; 114 Stat. 1645A–475) is—

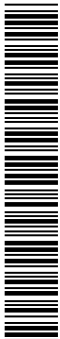
26 (A) transferred to title XLIII of the Bob Stump  
27 National Defense Authorization Act for Fiscal Year  
28 2003, as amended by this subsection;

29 (B) redesignated as section 4303;

30 (C) inserted after section 4302, as added by para-  
31 graph (3); and

32 (D) amended in subsection (c)(1) by striking “this  
33 Act” and inserting “the Floyd D. Spence National De-  
34 fense Authorization Act for Fiscal Year 2001 (as en-  
35 acted into law by Public Law 106–398)”.

36 (5) NUCLEAR CITIES INITIATIVE.—Section 3172 of the  
37 Floyd D. Spence National Defense Authorization Act for



## 31–35

1 Fiscal Year 2001 (as enacted into law by Public Law 106–  
2 398; 114 Stat. 1645A–476) is—

3 (A) transferred to title XLIII of the Bob Stump  
4 National Defense Authorization Act for Fiscal Year  
5 2003, as amended by this subsection;

6 (B) redesignated as section 4304; and

7 (C) inserted after section 4303, as added by para-  
8 graph (4).

9 (6) PROGRAMS ON FISSILE MATERIALS.—Section 3131  
10 of the National Defense Authorization Act for Fiscal Year  
11 1996 (Public Law 104–106; 110 Stat. 617), as amended  
12 by section 3152 of the Bob Stump National Defense Au-  
13 thorization Act for Fiscal Year 2003 (Public Law 107–314;  
14 116 Stat. 2738), is—

15 (A) transferred to title XLIII of the Bob Stump  
16 National Defense Authorization Act for Fiscal Year  
17 2003, as amended by this subsection;

18 (B) redesignated as section 4305; and

19 (C) inserted after section 4304, as added by para-  
20 graph (5).

21 (7) DISPOSITION OF PLUTONIUM.—

22 (A) DISPOSITION OF WEAPONS USABLE PLUTO-  
23 NIUM.—Section 3182 of the Bob Stump National De-  
24 fense Authorization Act for Fiscal Year 2003 (Public  
25 Law 107–314; 116 Stat. 2747) is—

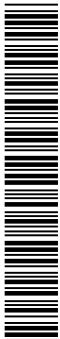
26 (i) transferred to title XLIII of such Act, as  
27 amended by this subsection;

28 (ii) redesignated as section 4306; and

29 (iii) inserted after section 4305, as added by  
30 paragraph (6).

31 (B) DISPOSITION OF SURPLUS DEFENSE PLUTO-  
32 NIUM.—Section 3155 of the National Defense Author-  
33 ization Act for Fiscal Year 2002 (Public Law 107–107;  
34 115 Stat. 1378) is—

35 (i) transferred to title XLIII of the Bob  
36 Stump National Defense Authorization Act for Fis-  
37 cal Year 2003, as amended by this subsection;



31–36

1 (ii) redesignated as section 4306A; and  
2 (iii) inserted after section 4306, as added by  
3 subparagraph (A).

4 (g) ENVIRONMENTAL RESTORATION AND WASTE MAN-  
5 AGEMENT MATTERS.—

6 (1) HEADINGS.—Division D of the Bob Stump Na-  
7 tional Defense Authorization Act for Fiscal Year 2003, as  
8 amended by this section, is further amended by adding at  
9 the end the following new headings:

10 **“TITLE XLIV—ENVIRONMENTAL**  
11 **RESTORATION AND WASTE MAN-**  
12 **AGEMENT MATTERS**

13 **“Subtitle A—Environmental**  
14 **Restoration and Waste Management”.**

15 (2) DEFENSE ENVIRONMENTAL RESTORATION AND  
16 WASTE MANAGEMENT ACCOUNT.—Section 3134 of the Na-  
17 tional Defense Authorization Act for Fiscal Years 1992 and  
18 1993 (Public Law 102–190; 105 Stat. 1575) is—

19 (A) transferred to title XLIV of the Bob Stump  
20 National Defense Authorization Act for Fiscal Year  
21 2003, as added by paragraph (1);

22 (B) redesignated as section 4401; and

23 (C) inserted after the heading for subtitle A of  
24 such title, as so added.

25 (3) FUTURE USE PLANS FOR ENVIRONMENTAL MAN-  
26 AGEMENT PROGRAM.—Section 3153 of the National De-  
27 fense Authorization Act for Fiscal Year 1997 (Public Law  
28 104–201; 110 Stat. 2839) is—

29 (A) transferred to title XLIV of the Bob Stump  
30 National Defense Authorization Act for Fiscal Year  
31 2003, as amended by this subsection;

32 (B) redesignated as section 4402;

33 (C) inserted after section 4401, as added by para-  
34 graph (2); and

35 (D) amended—





## 31–37

(i) in subsection (d), by striking “the date of the enactment of this Act” and inserting “September 23, 1996,”; and

(ii) in subsection (h)(1), by striking “the date of the enactment of this Act” and inserting “September 23, 1996”.

(4) INTEGRATED FISSILE MATERIALS MANAGEMENT PLAN.—Section 3172 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 948) is—

(A) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4403; and

(C) inserted after section 4402, as added by paragraph (3).

(5) BASELINE ENVIRONMENTAL MANAGEMENT REPORTS.—Section 3153 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1950), as amended by section 3160 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3094), section 3152 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2839), and section 3160 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2048), is—

(A) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4404; and

(C) inserted after section 4403, as added by paragraph (4).

(6) ACCELERATED SCHEDULE FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.—Section 3156 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 625) is—



## 31–38

1 (A) transferred to title XLIV of the Bob Stump  
2 National Defense Authorization Act for Fiscal Year  
3 2003, as amended by this subsection;

4 (B) redesignated as section 4405;

5 (C) inserted after section 4404, as added by para-  
6 graph (5); and

7 (D) amended in subsection (b)(2) by inserting be-  
8 fore the period the following: “, the predecessor provi-  
9 sion to section 4404 of this Act”.

10 (7) DEFENSE WASTE CLEANUP TECHNOLOGY PRO-  
11 GRAM.—Section 3141 of the National Defense Authoriza-  
12 tion Act for Fiscal Years 1990 and 1991 (Public Law 101–  
13 189; 103 Stat. 1679) is—

14 (A) transferred to title XLIV of the Bob Stump  
15 National Defense Authorization Act for Fiscal Year  
16 2003, as amended by this subsection;

17 (B) redesignated as section 4406;

18 (C) inserted after section 4405, as added by para-  
19 graph (6); and

20 (D) amended in the section heading by adding a  
21 period at the end.

22 (8) REPORT ON ENVIRONMENTAL RESTORATION EX-  
23 PENDITURES.—Section 3134 of the National Defense Au-  
24 thorization Act for Fiscal Year 1991 (Public Law 101–510;  
25 104 Stat. 1833) is—

26 (A) transferred to title XLIV of the Bob Stump  
27 National Defense Authorization Act for Fiscal Year  
28 2003, as amended by this subsection;

29 (B) redesignated as section 4407;

30 (C) inserted after section 4406, as added by para-  
31 graph (7); and

32 (D) amended in the section heading by adding a  
33 period at the end.

34 (9) PUBLIC PARTICIPATION IN PLANNING FOR ENVI-  
35 RONMENTAL RESTORATION AND WASTE MANAGEMENT.—  
36 Subsection (e) of section 3160 of the National Defense Au-



## 31–39

1       thorization Act for Fiscal Year 1995 (Public Law 103–337;  
2       108 Stat. 3095) is—

3               (A) transferred to title XLIV of the Bob Stump  
4       National Defense Authorization Act for Fiscal Year  
5       2003, as amended by this subsection;

6               (B) inserted after section 4407, as added by para-  
7       graph (8); and

8               (C) amended—

9                       (i) by inserting before the text the following  
10       new section heading:

11       **“SEC. 4408. PUBLIC PARTICIPATION IN PLANNING FOR**  
12       **ENVIRONMENTAL RESTORATION AND WASTE**  
13       **MANAGEMENT AT DEFENSE NUCLEAR FA-**  
14       **CILITIES.”;**

15       and

16                       (ii) by striking “(e) PUBLIC PARTICIPATION IN  
17       PLANNING.—”.

18       (10) SUBTITLE HEADING ON CLOSURE OF FACILI-  
19       TIES.—Title XLIV of the Bob Stump National Defense Au-  
20       thorization Act for Fiscal Year 2003, as amended by this  
21       subsection, is further amended by adding at the end the  
22       following new subtitle heading:

23       **“Subtitle B—Closure of Facilities”.**

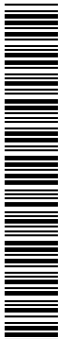
24               (11) PROJECTS TO ACCELERATE CLOSURE ACTIVITIES  
25       AT DEFENSE NUCLEAR FACILITIES.—Section 3143 of the  
26       National Defense Authorization Act for Fiscal Year 1997  
27       (Public Law 104–201; 110 Stat. 2836) is—

28               (A) transferred to title XLIV of the Bob Stump  
29       National Defense Authorization Act for Fiscal Year  
30       2003, as amended by this subsection;

31               (B) redesignated as section 4421;

32               (C) inserted after the heading for subtitle B of  
33       such title, as added by paragraph (10); and

34               (D) amended in subsection (i) by striking “the ex-  
35       piration of the 15-year period beginning on the date of  
36       the enactment of this Act” and inserting “September  
37       23, 2011”.



## 31–40

1 (12) REPORTS IN CONNECTION WITH PERMANENT  
2 CLOSURE OF DEFENSE NUCLEAR FACILITIES.—Section  
3 3156 of the National Defense Authorization Act for Fiscal  
4 Years 1990 and 1991 (Public Law 101–189; 103 Stat.  
5 1683) is—

6 (A) transferred to title XLIV of the Bob Stump  
7 National Defense Authorization Act for Fiscal Year  
8 2003, as amended by this subsection;

9 (B) redesignated as section 4422;

10 (C) inserted after section 4421, as added by para-  
11 graph (11); and

12 (D) amended in the section heading by adding a  
13 period at the end.

14 (13) SUBTITLE HEADING ON PRIVATIZATION.—Title  
15 XLIV of the Bob Stump National Defense Authorization  
16 Act for Fiscal Year 2003, as amended by this subsection,  
17 is further amended by adding at the end the following new  
18 subtitle heading:

19 **“Subtitle C—Privatization”.**

20 (14) DEFENSE ENVIRONMENTAL MANAGEMENT PRI-  
21 VATIZATION PROJECTS.—Section 3132 of the National De-  
22 fense Authorization Act for Fiscal Year 1998 (Public Law  
23 105–85; 111 Stat. 2034) is—

24 (A) transferred to title XLIV of the Bob Stump  
25 National Defense Authorization Act for Fiscal Year  
26 2003, as amended by this subsection;

27 (B) redesignated as section 4431;

28 (C) inserted after the heading for subtitle C of  
29 such title, as added by paragraph (13); and

30 (D) amended—

31 (i) in subsections (a), (c)(1)(B)(i), and (d), by  
32 inserting “of the National Defense Authorization  
33 Act for Fiscal Year 1998 (Public Law 105–85)”  
34 after “section 3102(i)”; and



31–41

(ii) in subsections (c)(1)(B)(ii) and (f), by striking “the date of enactment of this Act” and inserting “November 18, 1997”.

(15) SUBTITLE HEADING ON HANFORD RESERVATION.—Title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

**“Subtitle D—Hanford Reservation,  
Washington”.**

(16) SAFETY MEASURES FOR WASTE TANKS.—Section 3137 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1833) is—

(A) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4441;

(C) inserted after the heading for subtitle D of such title, as added by paragraph (15); and

(D) amended—

(i) in the section heading, by adding a period at the end;

(ii) in subsection (a), by striking “Within 90 days after the date of the enactment of this Act,” and inserting “Not later than February 3, 1991,”;

(iii) in subsection (b), by striking “Within 120 days after the date of the enactment of this Act,” and inserting “Not later than March 5, 1991,”;

(iv) in subsection (c), by striking “Beginning 120 days after the date of the enactment of this Act,” and inserting “Beginning March 5, 1991,”; and

(v) in subsection (d), by striking “Within six months after the date of the enactment of this Act,” and inserting “Not later than May 5, 1991,”.



## 31-42

(17) WASTE TANK CLEANUP PROGRAM.—Section 3139 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2250), as amended by section 3141 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-463) and section 3135 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1368), is—

(A) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4442;

(C) inserted after section 4441, as added by paragraph (16); and

(D) amended in subsection (d) by striking “30 days after the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001,” and inserting “November 29, 2000.”

(18) RIVER PROTECTION PROJECT.—Subsection (a) of section 3141 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-462) is—

(A) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4442, as added by paragraph (17); and

(C) amended—

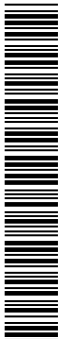
(i) by inserting before the text the following new section heading:

**“SEC. 4443. RIVER PROTECTION PROJECT.”;**

and

(ii) by striking “(a) REDESIGNATION OF PROJECT.—”.

(19) FUNDING FOR TERMINATION COSTS OF RIVER PROTECTION PROJECT.—Section 3131 of the Floyd D.



## 31–43

1 Spence National Defense Authorization Act for Fiscal Year  
2 2001 (as enacted into law by Public Law 106–398; 114  
3 Stat. 1654A–454) is—

4 (A) transferred to title XLIV of the Bob Stump  
5 National Defense Authorization Act for Fiscal Year  
6 2003, as amended by this subsection;

7 (B) redesignated as section 4444;

8 (C) inserted after section 4443, as added by para-  
9 graph (18); and

10 (D) amended—

11 (i) by striking “section 3141” and inserting  
12 “section 4443”; and

13 (ii) by striking “the date of the enactment of  
14 this Act” and inserting “October 30, 2000”.

15 (20) SUBTITLE HEADING ON SAVANNAH RIVER SITE,  
16 SOUTH CAROLINA.—Title XLIV of the Bob Stump National  
17 Defense Authorization Act for Fiscal Year 2003, as amend-  
18 ed by this subsection, is further amended by adding at the  
19 end the following new subtitle heading:

20 **“Subtitle E—Savannah River Site,**  
21 **South Carolina”.**

22 (21) ACCELERATED SCHEDULE FOR ISOLATING HIGH-  
23 LEVEL NUCLEAR WASTE AT DEFENSE WASTE PROCESSING  
24 FACILITY.—Section 3141 of the National Defense Author-  
25 ization Act for Fiscal Year 1997 (Public Law 104–201;  
26 110 Stat. 2834) is—

27 (A) transferred to title XLIV of the Bob Stump  
28 National Defense Authorization Act for Fiscal Year  
29 2003, as amended by this subsection;

30 (B) redesignated as 4451; and

31 (C) inserted after the heading for subtitle E of  
32 such title, as added by paragraph (20).

33 (22) MULTI-YEAR PLAN FOR CLEAN-UP.—Subsection  
34 (e) of section 3142 of the National Defense Authorization  
35 Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat.  
36 2834) is—



31–44

1 (A) transferred to title XLIV of the Bob Stump  
2 National Defense Authorization Act for Fiscal Year  
3 2003, as amended by this subsection;

4 (B) inserted after section 4451, as added by para-  
5 graph (21); and

6 (C) amended—

7 (i) by inserting before the text the following  
8 new section heading:

9 **“SEC. 4452. MULTI-YEAR PLAN FOR CLEAN-UP.”;**

10 and

11 (ii) by striking “(e) MULTI-YEAR PLAN FOR  
12 CLEAN-UP AT SAVANNAH RIVER SITE.—The Sec-  
13 retary” and inserting “The Secretary of Energy”.

14 (23) CONTINUATION OF PROCESSING, TREATMENT,  
15 AND DISPOSAL OF LEGACY NUCLEAR MATERIALS.—

16 (A) FISCAL YEAR 2001.—Subsection (a) of section  
17 3137 of the Floyd D. Spence National Defense Author-  
18 ization Act for Fiscal Year 2001 (as enacted into law  
19 by Public Law 106–398; 114 Stat. 1654A–460) is—

20 (i) transferred to title XLIV of the Bob Stump  
21 National Defense Authorization Act for Fiscal Year  
22 2003, as amended by this subsection;

23 (ii) inserted after section 4452, as added by  
24 paragraph (22); and

25 (iii) amended—

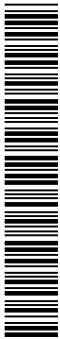
26 (I) by inserting before the text the fol-  
27 lowing new section heading:

28 **“SEC. 4453. CONTINUATION OF PROCESSING, TREAT-**  
29 **MENT, AND DISPOSAL OF LEGACY NUCLEAR**  
30 **MATERIALS.”;**

31 and

32 (II) by striking “(a) CONTINUATION.—”.

33 (B) FISCAL YEAR 2000.—Section 3132 of the Na-  
34 tional Defense Authorization Act for Fiscal Year 2000  
35 (Public Law 106–65; 113 Stat. 924) is—





## 31–45

(i) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4453A; and

(iii) inserted after section 4453, as added by subparagraph (A).

(C) FISCAL YEAR 1999.—Section 3135 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2248) is—

(i) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4453B; and

(iii) inserted after section 4453A, as added by subparagraph (B).

(D) FISCAL YEAR 1998.—Subsection (b) of section 3136 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2038) is—

(i) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) inserted after section 4453B, as added by subparagraph (C); and

(iii) amended—

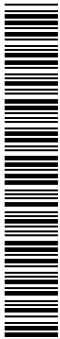
(I) by inserting before the text the following new section heading:

**“SEC. 4453C. CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSAL OF LEGACY NUCLEAR MATERIALS.”;**

and

(II) by striking “(b) REQUIREMENT FOR CONTINUING OPERATIONS AT SAVANNAH RIVER SITE.—”.

(E) FISCAL YEAR 1997.—Subsection (f) of section 3142 of the National Defense Authorization Act for



## 31–46

1 Fiscal Year 1997 (Public Law 104–201; 110 Stat.  
2 2836) is—

3 (i) transferred to title XLIV of the Bob Stump  
4 National Defense Authorization Act for Fiscal Year  
5 2003, as amended by this subsection;

6 (ii) inserted after section 4453C, as added by  
7 subparagraph (D); and

8 (iii) amended—

9 (I) by inserting before the text the fol-  
10 lowing new section heading:

11 **“SEC. 4453D. CONTINUATION OF PROCESSING, TREAT-**  
12 **MENT, AND DISPOSAL OF LEGACY NUCLEAR**  
13 **MATERIALS.”;**

14 (II) by striking “(f) REQUIREMENT FOR  
15 CONTINUING OPERATIONS AT SAVANNAH  
16 RIVER SITE.—The Secretary” and inserting  
17 “The Secretary of Energy”; and

18 (III) by striking “subsection (e)” and in-  
19 serting “section 4452”.

20 (24) LIMITATION ON USE OF FUNDS FOR DECOMMISS-  
21 SIONING F–CANYON FACILITY.—Subsection (b) of section  
22 3137 of the Floyd D. Spence National Defense Authoriza-  
23 tion Act for Fiscal Year 2001 (as enacted into law by Pub-  
24 lic Law 106–398; 114 Stat. 1654A–460) is—

25 (A) transferred to title XLIV of the Bob Stump  
26 National Defense Authorization Act for Fiscal Year  
27 2003, as amended by this subsection;

28 (B) inserted after section 4453D, as added by  
29 paragraph (23)(E); and

30 (C) amended—

31 (i) by inserting before the text the following  
32 new section heading:

33 **“SEC. 4454. LIMITATION ON USE OF FUNDS FOR DECOM-**  
34 **MISSIONING F–CANYON FACILITY.”;**

35 (ii) by striking “(b) LIMITATION ON USE OF  
36 FUNDS FOR DECOMMISSIONING F–CANYON FACIL-  
37 ITY.—”;



31-47

(iii) by striking “this or any other Act” and inserting “the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398) or any other Act”; and

(iv) by striking “the Secretary” in the matter preceding paragraph (1) and inserting “the Secretary of Energy”.

(h) SAFEGUARDS AND SECURITY MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

**“TITLE XLV—SAFEGUARDS AND  
SECURITY MATTERS  
“Subtitle A—Safeguards and  
Security”.**

(2) PROHIBITION ON INTERNATIONAL INSPECTIONS OF FACILITIES WITHOUT PROTECTION OF RESTRICTED DATA.—Section 3154 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 624) is—

(A) transferred to title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4501;

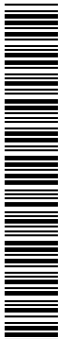
(C) inserted after the heading for subtitle A of such title, as so added; and

(D) amended—

(i) by striking “(1) The” and inserting “The”;  
and

(ii) by striking “(2) For purposes of paragraph (1),” and inserting “(c) RESTRICTED DATA DEFINED.—In this section,”.

(3) RESTRICTIONS ON ACCESS TO LABORATORIES BY FOREIGN VISITORS FROM SENSITIVE COUNTRIES.—Section



## 31–48

1       3146 of the National Defense Authorization Act for Fiscal  
2       Year 2000 (Public Law 106–65; 113 Stat. 935) is—

3               (A) transferred to title XLV of the Bob Stump  
4       National Defense Authorization Act for Fiscal Year  
5       2003, as amended by this subsection;

6               (B) redesignated as section 4502;

7               (C) inserted after section 4501, as added by para-  
8       graph (2); and

9               (D) amended—

10              (i) in subsection (b)(2)—

11                      (I) in the matter preceding subparagraph  
12              (A), by striking “30 days after the date of the  
13              enactment of this Act” and inserting “on No-  
14              vember 4, 1999,”; and

15                      (II) in subparagraph (A), by striking “The  
16              date that is 90 days after the date of the enact-  
17              ment of this Act” and inserting “January 3,  
18              2000”;

19              (ii) in subsection (d)(1), by striking “the date  
20              of the enactment of this Act,” and inserting “Octo-  
21              ber 5, 1999,”; and

22              (iii) in subsection (g), by adding at the end  
23              the following new paragraphs:

24              “(3) The term ‘national laboratory’ means any of the  
25       following:

26                      “(A) Lawrence Livermore National Laboratory,  
27              Livermore, California.

28                      “(B) Los Alamos National Laboratory, Los Ala-  
29              mos, New Mexico.

30                      “(C) Sandia National Laboratories, Albuquerque,  
31              New Mexico and Livermore, California.

32              “(4) The term ‘Restricted Data’ has the meaning  
33       given that term in section 11 y. of the Atomic Energy Act  
34       of 1954 (42 U.S.C. 2014(y)).”.

35              (4) BACKGROUND INVESTIGATIONS ON CERTAIN PER-  
36       SONNEL.—Section 3143 of the National Defense Author-



## 31–49

1        ization Act for Fiscal Year 2000 (Public Law 106–65; 113  
2        Stat. 934) is—

3                (A) transferred to title XLV of the Bob Stump  
4        National Defense Authorization Act for Fiscal Year  
5        2003, as amended by this subsection;

6                (B) redesignated as section 4503;

7                (C) inserted after section 4502, as added by para-  
8        graph (3); and

9                (D) amended—

10                (i) in subsection (b), by striking “the date of  
11        the enactment of this Act” and inserting “October  
12        5, 1999,”; and

13                (ii) by adding at the end the following new  
14        subsection:

15        “(c) DEFINITIONS.—In this section, the terms ‘national  
16        laboratory’ and ‘Restricted Data’ have the meanings given such  
17        terms in section 4502(g).”.

18                (5) COUNTERINTELLIGENCE POLYGRAPH PROGRAM.—

19                (A) DEPARTMENT OF ENERGY COUNTERINTEL-  
20        LIGENCE POLYGRAPH PROGRAM.—Section 3152 of the  
21        National Defense Authorization Act for Fiscal Year  
22        2002 (Public Law 107–107; 115 Stat. 1376) is—

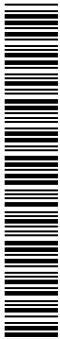
23                (i) transferred to title XLV of the Bob Stump  
24        National Defense Authorization Act for Fiscal Year  
25        2003, as amended by this subsection;

26                (ii) redesignated as section 4504;

27                (iii) inserted after section 4503, as added by  
28        paragraph (4); and

29                (iv) amended in subsection (c) by striking  
30        “section 3154 of the Department of Energy Facili-  
31        ties Safeguards, Security, and Counterintelligence  
32        Enhancement Act of 1999 (subtitle D of title  
33        XXXI of Public Law 106–65; 42 U.S.C. 7383h)”  
34        and inserting “section 4504A”.

35                (B) COUNTERINTELLIGENCE POLYGRAPH PRO-  
36        GRAM.—Section 3154 of the National Defense Author-  
37        ization Act for Fiscal Year 2000 (Public Law 106–65;



## 31–50

1 113 Stat. 941), as amended by section 3135 of the  
2 Floyd D. Spence National Defense Authorization Act  
3 for Fiscal Year 2001 (as enacted into law by Public  
4 Law 106–398; 114 Stat. 1654A–456), is—

5 (i) transferred to title XLV of the Bob Stump  
6 National Defense Authorization Act for Fiscal Year  
7 2003, as amended by this subsection;

8 (ii) redesignated as section 4504A;

9 (iii) inserted after section 4504, as added by  
10 subparagraph (A); and

11 (iv) amended in subsection (h) by striking  
12 “180 days after the date of the enactment of this  
13 Act,” and inserting “April 5, 2000.”

14 (6) NOTICE OF SECURITY AND COUNTERINTEL-  
15 LIGENCE FAILURES.—Section 3150 of the National De-  
16 fense Authorization Act for Fiscal Year 2000 (Public Law  
17 106–65; 113 Stat. 939) is—

18 (A) transferred to title XLV of the Bob Stump  
19 National Defense Authorization Act for Fiscal Year  
20 2003, as amended by this subsection;

21 (B) redesignated as section 4505; and

22 (C) inserted after section 4504A, as added by  
23 paragraph (5)(B).

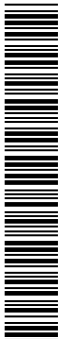
24 (7) ANNUAL REPORT ON SECURITY FUNCTIONS AT NU-  
25 CLEAR WEAPONS FACILITIES.—Section 3162 of the Na-  
26 tional Defense Authorization Act for Fiscal Year 1998  
27 (Public Law 105–85; 111 Stat. 2049) is—

28 (A) transferred to title XLV of the Bob Stump  
29 National Defense Authorization Act for Fiscal Year  
30 2003, as amended by this subsection;

31 (B) redesignated as section 4506;

32 (C) inserted after section 4505, as added by para-  
33 graph (6); and

34 (D) amended in subsection (b) by inserting “of the  
35 National Defense Authorization Act for Fiscal Year  
36 1998 (Public Law 105–85; 111 Stat. 2048; 42 U.S.C.  
37 7251 note)” after “section 3161”.



## 31–51

(8) REPORT ON COUNTERINTELLIGENCE AND SECURITY PRACTICES AT LABORATORIES.—Section 3152 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 940) is—

(A) transferred to title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4507;

(C) inserted after section 4506, as added by paragraph (7); and

(D) amended by adding at the end the following new subsection:

“(c) NATIONAL LABORATORY DEFINED.—In this section, the term ‘national laboratory’ has the meaning given that term in section 4502(g)(3).”.

(9) REPORT ON SECURITY VULNERABILITIES OF NATIONAL LABORATORY COMPUTERS.—Section 3153 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 940) is—

(A) transferred to title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

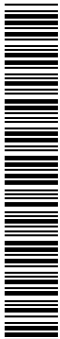
(B) redesignated as section 4508;

(C) inserted after section 4507, as added by paragraph (8); and

(D) amended by adding at the end the following new subsection:

“(f) NATIONAL LABORATORY DEFINED.—In this section, the term ‘national laboratory’ has the meaning given that term in section 4502(g)(3).”.

(10) SUBTITLE HEADING ON CLASSIFIED INFORMATION.—Title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:



31–52

**“Subtitle B—Classified Information”.**

(11) REVIEW OF CERTAIN DOCUMENTS BEFORE DECLASSIFICATION AND RELEASE.—Section 3155 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 625) is—

(A) transferred to title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4521; and

(C) inserted after the heading for subtitle B of such title, as added by paragraph (10).

(12) PROTECTION AGAINST INADVERTENT RELEASE OF RESTRICTED DATA AND FORMERLY RESTRICTED DATA.—Section 3161 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2259), as amended by section 1067(3) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 774) and section 3193 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–480), is—

(A) transferred to title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4522;

(C) inserted after section 4521, as added by paragraph (11); and

(D) amended—

(i) in subsection (c)(1), by striking “the date of the enactment of this Act” and inserting “October 17, 1998,”;

(ii) in subsection (f)(1), by striking “the date of the enactment of this Act” and inserting “October 17, 1998”; and

(iii) in subsection (f)(2), by striking “The Secretary” and inserting “Commencing with inad-





## 31-53

1           vertent releases discovered on or after October 30,  
2           2000, the Secretary”.

3           (13) SUPPLEMENT TO PLAN FOR DECLASSIFICATION  
4           OF RESTRICTED DATA AND FORMERLY RESTRICTED  
5           DATA.—Section 3149 of the National Defense Authoriza-  
6           tion Act for Fiscal Year 2000 (Public Law 106-65; 113  
7           Stat. 938) is—

8           (A) transferred to title XLV of the Bob Stump  
9           National Defense Authorization Act for Fiscal Year  
10          2003, as amended by this subsection;

11          (B) redesignated as section 4523;

12          (C) inserted after section 4522, as added by para-  
13          graph (12); and

14          (D) amended—

15           (i) in subsection (a), by striking “subsection  
16           (a) of section 3161 of the Strom Thurmond Na-  
17           tional Defense Authorization Act for Fiscal Year  
18           1999 (Public Law 105-261; 112 Stat. 2260; 50  
19           U.S.C. 435 note)” and inserting “subsection (a) of  
20           section 4522”;

21           (ii) in subsection (b)—

22           (I) by striking “section 3161(b)(1) of that  
23           Act” and inserting “subsection (b)(1) of section  
24           4522”; and

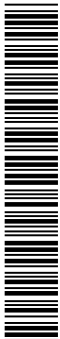
25           (II) by striking “the date of the enactment  
26           of that Act” and inserting “October 17,  
27           1998,”;

28           (iii) in subsection (c)—

29           (I) by striking “section 3161(c) of that  
30           Act” and inserting “subsection (c) of section  
31           4522”; and

32           (II) by striking “section 3161(a) of that  
33           Act” and inserting “subsection (a) of such sec-  
34           tion”; and

35           (iv) in subsection (d), by striking “section  
36           3161(d) of that Act” and inserting “subsection (d)  
37           of section 4522”.



## 31–54

(14) PROTECTION OF CLASSIFIED INFORMATION DURING LABORATORY-TO-LABORATORY EXCHANGES.—Section 3145 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 935) is—

(A) transferred to title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4524; and

(C) inserted after section 4523, as added by paragraph (13).

(15) IDENTIFICATION IN BUDGETS OF AMOUNT FOR DECLASSIFICATION ACTIVITIES.—Section 3173 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 949) is—

(A) transferred to title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4525;

(C) inserted after section 4524, as added by paragraph (14); and

(D) amended in subsection (b) by striking “the date of the enactment of this Act” and inserting “October 5, 1999,”.

(16) SUBTITLE HEADING ON EMERGENCY RESPONSE.—Title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

**“Subtitle C—Emergency Response”.**

(17) RESPONSIBILITY FOR DEFENSE PROGRAMS EMERGENCY RESPONSE PROGRAM.—Section 3158 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 626) is—

(A) transferred to title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;



31–55

1 (B) redesignated as section 4541; and  
2 (C) inserted after the heading for subtitle C of  
3 such title, as added by paragraph (16).

4 (i) PERSONNEL MATTERS.—

5 (1) HEADINGS.—Division D of the Bob Stump Na-  
6 tional Defense Authorization Act for Fiscal Year 2003, as  
7 amended by this section, is further amended by adding at  
8 the end the following new headings:

9 **“TITLE XLVI—PERSONNEL**  
10 **MATTERS**  
11 **“Subtitle A—Personnel Management”.**

12 (2) AUTHORITY FOR APPOINTMENT OF CERTAIN SCI-  
13 ENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.—  
14 Section 3161 of the National Defense Authorization Act for  
15 Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3095),  
16 as amended by section 3139 of the National Defense Au-  
17 thorization Act for Fiscal Year 1998 (Public Law 105–85;  
18 111 Stat. 2040), sections 3152 and 3155 of the Strom  
19 Thurmond National Defense Authorization Act for Fiscal  
20 Year 1999 (Public Law 105–261; 112 Stat. 2253, 2257),  
21 and section 3191 of the Floyd D. Spence National Defense  
22 Authorization Act for Fiscal Year 2001 (as enacted into  
23 law by Public Law 106–398; 114 Stat. 1654A–480), is—

24 (A) transferred to title XLVI of the Bob Stump  
25 National Defense Authorization Act for Fiscal Year  
26 2003, as added by paragraph (1);

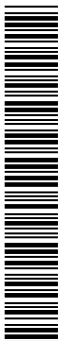
27 (B) redesignated as section 4601; and

28 (C) inserted after the heading for subtitle A of  
29 such title, as so added.

30 (3) WHISTLEBLOWER PROTECTION PROGRAM.—Sec-  
31 tion 3164 of the National Defense Authorization Act for  
32 Fiscal Year 2000 (Public Law 106–65; 113 Stat. 946) is—

33 (A) transferred to title XLVI of the Bob Stump  
34 National Defense Authorization Act for Fiscal Year  
35 2003, as amended by this subsection;

36 (B) redesignated as section 4602;



## 31–56

1 (C) inserted after section 4601, as added by para-  
2 graph (2); and

3 (D) amended in subsection (n) by striking “60  
4 days after the date of the enactment of this Act,” and  
5 inserting “December 5, 1999.”

6 (4) EMPLOYEE INCENTIVES FOR WORKERS AT CLO-  
7 SURE PROJECT FACILITIES.—Section 3136 of the Floyd D.  
8 Spence National Defense Authorization Act for Fiscal Year  
9 2001 (as enacted into law by Public Law 106–398; 114  
10 Stat. 1654A–458) is—

11 (A) transferred to title XLVI of the Bob Stump  
12 National Defense Authorization Act for Fiscal Year  
13 2003, as amended by this subsection;

14 (B) redesignated as section 4603;

15 (C) inserted after section 4602, as added by para-  
16 graph (3); and

17 (D) amended—

18 (i) in subsections (c) and (i)(1)(A), by striking  
19 “section 3143 of the National Defense Authoriza-  
20 tion Act for Fiscal Year 1997 (42 U.S.C. 7274n)”  
21 and inserting “section 4421”; and

22 (ii) in subsection (g), by striking “section  
23 3143(h) of the National Defense Authorization Act  
24 for Fiscal Year 1997” and inserting “section  
25 4421(h)”.

26 (5) DEFENSE NUCLEAR FACILITY WORKFORCE RE-  
27 STRUCTURING PLAN.—Section 3161 of the National De-  
28 fense Authorization Act for Fiscal Year 1993 (Public Law  
29 102–484; 106 Stat. 2644), as amended by section  
30 1070(c)(2) of the National Defense Authorization Act for  
31 Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2857),  
32 Public Law 105–277 (112 Stat. 2681–419, 2681–430),  
33 and section 1048(h)(1) of the National Defense Authoriza-  
34 tion Act for Fiscal Year 2002 (Public Law 107–107; 115  
35 Stat. 1229), is—



31–57

1 (A) transferred to title XLVI of the Bob Stump  
2 National Defense Authorization Act for Fiscal Year  
3 2003, as amended by this subsection;

4 (B) redesignated as section 4604;

5 (C) inserted after section 4603, as added by para-  
6 graph (4); and

7 (D) amended—

8 (i) in subsection (a), by striking “(hereinafter  
9 in this subtitle referred to as the ‘Secretary’)”; and

10 (ii) by adding at the end the following new  
11 subsection:

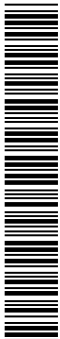
12 “(g) DEPARTMENT OF ENERGY DEFENSE NUCLEAR FA-  
13 CILITY DEFINED.—In this section, the term ‘Department of  
14 Energy defense nuclear facility’ means—

15 “(1) a production facility or utilization facility (as  
16 those terms are defined in section 11 of the Atomic Energy  
17 Act of 1954 (42 U.S.C. 2014)) that is under the control  
18 or jurisdiction of the Secretary and that is operated for na-  
19 tional security purposes (including the tritium loading facil-  
20 ity at Savannah River, South Carolina, the 236 H facility  
21 at Savannah River, South Carolina; and the Mound Lab-  
22 oratory, Ohio), but the term does not include any facility  
23 that does not conduct atomic energy defense activities and  
24 does not include any facility or activity covered by Execu-  
25 tive Order Number 12344, dated February 1, 1982, per-  
26 taining to the naval nuclear propulsion program;

27 “(2) a nuclear waste storage or disposal facility that  
28 is under the control or jurisdiction of the Secretary;

29 “(3) a testing and assembly facility that is under the  
30 control or jurisdiction of the Secretary and that is operated  
31 for national security purposes (including the Nevada Test  
32 Site, Nevada; the Pinnellas Plant, Florida; and the Pantex  
33 facility, Texas);

34 “(4) an atomic weapons research facility that is under  
35 the control or jurisdiction of the Secretary (including Law-  
36 rence Livermore, Los Alamos, and Sandia National Lab-  
37 oratories); or



31–58

“(5) any facility described in paragraphs (1) through  
(4) that—

“(A) is no longer in operation;

“(B) was under the control or jurisdiction of the  
Department of Defense, the Atomic Energy Commis-  
sion, or the Energy Research and Development Admin-  
istration; and

“(C) was operated for national security pur-  
poses.”.

(6) AUTHORITY TO PROVIDE CERTIFICATE OF COM-  
MENDATION TO EMPLOYEES.—Section 3195 of the Floyd  
D. Spence National Defense Authorization Act for Fiscal  
Year 2001 (as enacted into law by Public Law 106–398;  
114 Stat. 1654A–481) is—

(A) transferred to title XLVI of the Bob Stump  
National Defense Authorization Act for Fiscal Year  
2003, as amended by this subsection;

(B) redesignated as section 4605; and

(C) inserted after section 4604, as added by para-  
graph (5).

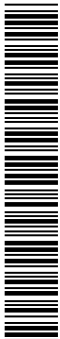
(7) SUBTITLE HEADING ON EDUCATION AND TRAIN-  
ING.—Title XLVI of the Bob Stump National Defense Au-  
thorization Act for Fiscal Year 2003, as amended by this  
subsection, is further amended by adding at the end the  
following new subtitle heading:

**“Subtitle B—Education and  
Training”.**

(8) EXECUTIVE MANAGEMENT TRAINING.—Section  
3142 of the National Defense Authorization Act for Fiscal  
Years 1990 and 1991 (Public Law 101–189; 103 Stat.  
1680) is—

(A) transferred to title XLVI of the Bob Stump  
National Defense Authorization Act for Fiscal Year  
2003, as amended by this subsection;

(B) redesignated as section 4621;



## 31–59

1 (C) inserted after the heading for subtitle B of  
2 such title, as added by paragraph (7); and

3 (D) amended in the section heading by adding a  
4 period at the end.

5 (9) STOCKPILE STEWARDSHIP RECRUITMENT AND  
6 TRAINING PROGRAM.—Section 3131 of the National De-  
7 fense Authorization Act for Fiscal Year 1995 (Public Law  
8 103–337; 108 Stat. 3085) is—

9 (A) transferred to title XLVI of the Bob Stump  
10 National Defense Authorization Act for Fiscal Year  
11 2003, as amended by this subsection;

12 (B) redesignated as section 4622;

13 (C) inserted after section 4621, as added by para-  
14 graph (8); and

15 (D) amended—

16 (i) in subsection (a)(1), by striking “section  
17 3138 of the National Defense Authorization Act for  
18 Fiscal Year 1994 (Public Law 103–160; 107 Stat.  
19 1946; 42 U.S.C. 2121 note)” and inserting “sec-  
20 tion 4201”; and

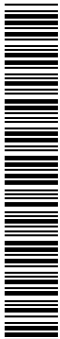
21 (ii) in subsection (b)(2), by inserting “of the  
22 National Defense Authorization Act for Fiscal Year  
23 1995 (Public Law 103–337)” after “section  
24 3101(a)(1)”.

25 (10) FELLOWSHIP PROGRAM FOR DEVELOPMENT OF  
26 SKILLS CRITICAL TO NUCLEAR WEAPONS COMPLEX.—Sec-  
27 tion 3140 of the National Defense Authorization Act for  
28 Fiscal Year 1996 (Public Law 104–106; 110 Stat 621), as  
29 amended by section 3162 of the National Defense Author-  
30 ization Act for Fiscal Year 2000 (Public Law 106–65; 113  
31 Stat. 943), is—

32 (A) transferred to title XLVI of the Bob Stump  
33 National Defense Authorization Act for Fiscal Year  
34 2003, as amended by this subsection;

35 (B) redesignated as section 4623; and

36 (C) inserted after section 4622, as added by para-  
37 graph (9).



(11) SUBTITLE HEADING ON WORKER SAFETY.—Title XLVI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

**“Subtitle C—Worker Safety”.**

(12) WORKER PROTECTION AT NUCLEAR WEAPONS FACILITIES.—Section 3131 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1571) is—

(A) transferred to title XLVI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4641;

(C) inserted after the heading for subtitle C of such title, as added by paragraph (11); and

(D) amended in subsection (e) by inserting “of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190)” after “section 3101(9)(A)”.

(13) SAFETY OVERSIGHT AND ENFORCEMENT AT DEFENSE NUCLEAR FACILITIES.—Section 3163 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3097) is—

(A) transferred to title XLVI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4642;

(C) inserted after section 4641, as added by paragraph (12); and

(D) amended in subsection (b) by striking “90 days after the date of the enactment of this Act,” and inserting “January 5, 1995,”.

(14) PROGRAM TO MONITOR WORKERS AT DEFENSE NUCLEAR FACILITIES EXPOSED TO HAZARDOUS OR RADIOACTIVE SUBSTANCES.—Section 3162 of the National De-





## 31–61

1       fense Authorization Act for Fiscal Year 1993 (Public Law  
2       102–484; 106 Stat. 2646) is—

3               (A) transferred to title XLVI of the Bob Stump  
4       National Defense Authorization Act for Fiscal Year  
5       2003, as amended by this subsection;

6               (B) redesignated as section 4643;

7               (C) inserted after section 4642, as added by para-  
8       graph (13); and

9               (D) amended—

10               (i) in subsection (b)(6), by striking “1 year  
11       after the date of the enactment of this Act” and in-  
12       serting “October 23, 1993”;

13               (ii) in subsection (c), by striking “180 days  
14       after the date of the enactment of this Act,” and  
15       inserting “April 23, 1993,”; and

16               (iii) by adding at the end the following new  
17       subsection:

18       “(d) DEFINITIONS.—In this section:

19               “(1) The term ‘Department of Energy defense nuclear  
20       facility’ has the meaning given that term in section  
21       4604(g).

22               “(2) The term ‘Department of Energy employee’  
23       means any employee of the Department of Energy em-  
24       ployed at a Department of Energy defense nuclear facility,  
25       including any employee of a contractor or subcontractor of  
26       the Department of Energy employed at such a facility.”.

27       (15) PROGRAMS FOR PERSONS WHO MAY HAVE BEEN  
28       EXPOSED TO RADIATION RELEASED FROM HANFORD RES-  
29       ERVATION.—Section 3138 of the National Defense Author-  
30       ization Act for Fiscal Year 1991 (Public Law 101–510;  
31       104 Stat. 1834), as amended by section 3138 of the Na-  
32       tional Defense Authorization Act for Fiscal Year 1995  
33       (Public Law 103–337; 108 Stat. 3087), is—

34               (A) transferred to title XLVI of the Bob Stump  
35       National Defense Authorization Act for Fiscal Year  
36       2003, as amended by this subsection;

37               (B) redesignated as section 4644;



## 31–62

(C) inserted after section 4643, as added by paragraph (14); and

(D) amended—

(i) in the section heading, by adding a period at the end;

(ii) in subsection (a), by striking “this title” and inserting “title XXXI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510)”; and

(iii) in subsection (c)—

(I) in paragraph (2), by striking “six months after the date of the enactment of this Act,” and inserting “May 5, 1991,”; and

(II) in paragraph (3), by striking “18 months after the date of the enactment of this Act,” and inserting “May 5, 1992,”.

(j) BUDGET AND FINANCIAL MANAGEMENT MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

**“TITLE XLVII—BUDGET AND FINANCIAL MANAGEMENT MATTERS**

**“Subtitle A—Recurring National Security Authorization Provisions”.**

(2) RECURRING NATIONAL SECURITY AUTHORIZATION PROVISIONS.—Sections 3620 through 3631 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2756) are—

(A) transferred to title XLVII of such Act, as added by paragraph (1);

(B) redesignated as sections 4701 through 4712, respectively;

(C) inserted after the heading for subtitle A of such title, as so added; and



## 31–63

- 1 (D) amended—
- 2 (i) in section 4702, as so redesignated, by
- 3 striking “sections 3629 and 3630” and inserting
- 4 “sections 4710 and 4711”;
- 5 (ii) in section 4706(a)(3)(B), as so redesign-
- 6 ated, by striking “section 3626” and inserting
- 7 “section 4707”;
- 8 (iii) in section 4707(c), as so redesignated, by
- 9 striking “section 3625(b)(2)” and inserting “sec-
- 10 tion 4706(b)(2)”;
- 11 (iv) in section 4710(c), as so redesignated, by
- 12 striking “section 3621” and inserting “section
- 13 4702”;
- 14 (v) in section 4711(c), as so redesignated, by
- 15 striking “section 3621” and inserting “section
- 16 4702”; and
- 17 (vi) in section 4712, as so redesignated, by
- 18 striking “section 3621” and inserting “section
- 19 4702”.

20 (3) SUBTITLE HEADING ON PENALTIES.—Title XLVII

21 of the Bob Stump National Defense Authorization Act for

22 Fiscal Year 2003, as amended by this subsection, is further

23 amended by adding at the end the following new subtitle

24 heading:

25 **“Subtitle B—Penalties”.**

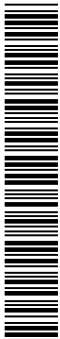
26 (4) RESTRICTION ON USE OF FUNDS TO PAY PEN-

27 ALTIES UNDER ENVIRONMENTAL LAWS.—Section 3132 of

28 the National Defense Authorization Act for Fiscal Year

29 1987 (Public Law 99–661; 100 Stat. 4063) is—

- 30 (A) transferred to title XLVII of the Bob Stump
- 31 National Defense Authorization Act for Fiscal Year
- 32 2003, as amended by this subsection;
- 33 (B) redesignated as section 4721;
- 34 (C) inserted after the heading for subtitle B of
- 35 such title, as added by paragraph (3); and



31-64

(D) amended in the section heading by adding a period at the end.

(5) RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER CLEAN AIR ACT.—Section 211 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96-540; 94 Stat. 3203) is—

(A) transferred to title XLVII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4721, as added by paragraph (4); and

(C) amended—

(i) by striking the section heading and inserting the following new section heading:

**“SEC. 4722. RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER CLEAN AIR ACT.”;**

(ii) by striking “SEC. 211.”; and

(iii) by striking “this or any other Act” and inserting “the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96-540) or any other Act”.

(6) SUBTITLE HEADING ON OTHER MATTERS.—Title XLVII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

**“Subtitle C—Other Matters”.**

(7) SINGLE REQUEST FOR AUTHORIZATION OF APPROPRIATIONS FOR COMMON DEFENSE AND SECURITY PROGRAMS.—Section 208 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1979 (Public Law 95-509; 92 Stat. 1779) is—



31–65

1 (A) transferred to title XLVII of the Bob Stump  
2 National Defense Authorization Act for Fiscal Year  
3 2003, as amended by this subsection;

4 (B) inserted after the heading for subtitle C of  
5 such title, as added by paragraph (6); and

6 (C) amended—

7 (i) by striking the section heading and insert-  
8 ing the following new section heading:

9 **“SEC. 4731. SINGLE REQUEST FOR AUTHORIZATION OF**  
10 **APPROPRIATIONS FOR COMMON DEFENSE**  
11 **AND SECURITY PROGRAMS.”;**

12 and

13 (ii) by striking “SEC. 208.”.

14 (k) ADMINISTRATIVE MATTERS.—

15 (1) HEADINGS.—Division D of the Bob Stump Na-  
16 tional Defense Authorization Act for Fiscal Year 2003, as  
17 amended by this section, is further amended by adding at  
18 the end the following new headings:

19 **“TITLE XLVIII—ADMINISTRATIVE**  
20 **MATTERS**  
21 **“Subtitle A—Contracts”.**

22 (2) COSTS NOT ALLOWED UNDER CERTAIN CON-  
23 TRACTS.—Section 1534 of the Department of Defense Au-  
24 thorization Act, 1986 (Public Law 99–145; 99 Stat. 774),  
25 as amended by section 3131 of the National Defense Au-  
26 thorization Act for Fiscal Years 1988 and 1989 (Public  
27 Law 100–180; 101 Stat. 1238), is—

28 (A) transferred to title XLVIII of the Bob Stump  
29 National Defense Authorization Act for Fiscal Year  
30 2003, as added by paragraph (1);

31 (B) redesignated as section 4801;

32 (C) inserted after the heading for subtitle A of  
33 such title, as so added; and

34 (D) amended—

35 (i) in the section heading, by adding a period  
36 at the end; and



## 31–66

(ii) in subsection (b)(1), by striking “the date of the enactment of this Act,” and inserting “November 8, 1985,”.

(3) PROHIBITION ON BONUSES TO CONTRACTORS OPERATING DEFENSE NUCLEAR FACILITIES.—Section 3151 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1682) is—

(A) transferred to title XLVIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4802;

(C) inserted after section 4801, as added by paragraph (2); and

(D) amended—

(i) in the section heading, by adding a period at the end;

(ii) in subsection (a), by striking “the date of the enactment of this Act” and inserting “November 29, 1989”;

(iii) in subsection (b), by striking “6 months after the date of the enactment of this Act,” and inserting “May 29, 1990,”; and

(iv) in subsection (d), by striking “90 days after the date of the enactment of this Act” and inserting “March 1, 1990”.

(4) CONTRACTOR LIABILITY FOR INJURY OR LOSS OF PROPERTY ARISING FROM ATOMIC WEAPONS TESTING PROGRAMS.—Section 3141 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1837) is—

(A) transferred to title XLVIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4803;

(C) inserted after section 4802, as added by paragraph (3); and



31–67

- 1 (D) amended—  
2 (i) in the section heading, by adding a period  
3 at the end; and  
4 (ii) in subsection (d), by striking “the date of  
5 the enactment of this Act” each place it appears  
6 and inserting “November 5, 1990.”.

7 (5) SUBTITLE HEADING ON RESEARCH AND DEVELOP-  
8 MENT.—Title XLVIII of the Bob Stump National Defense  
9 Authorization Act for Fiscal Year 2003, as amended by  
10 this subsection, is further amended by adding at the end  
11 the following new subtitle heading:

12 **“Subtitle B—Research and**  
13 **Development”.**

14 (6) LABORATORY-DIRECTED RESEARCH AND DEVELOP-  
15 MENT.—Section 3132 of the National Defense Authoriza-  
16 tion Act for Fiscal Year 1991 (Public Law 101–510; 104  
17 Stat. 1832) is—

18 (A) transferred to title XLVIII of the Bob Stump  
19 National Defense Authorization Act for Fiscal Year  
20 2003, as amended by this subsection;

21 (B) redesignated as section 4811;

22 (C) inserted after the heading for subtitle B of  
23 such title, as added by paragraph (5); and

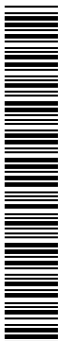
24 (D) amended in the section heading by adding a  
25 period at the end.

26 (7) LIMITATIONS ON USE OF FUNDS FOR LABORATORY  
27 DIRECTED RESEARCH AND DEVELOPMENT.—

28 (A) LIMITATIONS ON USE OF FUNDS FOR LABORA-  
29 TORY DIRECTED RESEARCH AND DEVELOPMENT.—Sec-  
30 tion 3137 of the National Defense Authorization Act  
31 for Fiscal Year 1998 (Public Law 105–85; 111 Stat.  
32 2038) is—

33 (i) transferred to title XLVIII of the Bob  
34 Stump National Defense Authorization Act for Fis-  
35 cal Year 2003, as amended by this subsection;

36 (ii) redesignated as section 4812;



## 31–68

(iii) inserted after section 4811, as added by paragraph (6);

(iv) amended in subsection (b) by striking “section 3136(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2831; 42 U.S.C. 7257b)” and inserting “section 4812A(b)”;

(v) amended in subsection (d)—

(I) by striking “section 3136(b)(1)” and inserting “section 4812A(b)(1)”; and

(II) by striking “section 3132(c) of the National Defense Authorization Act for Fiscal Year 1991 (42 U.S.C. 7257a(c))” and inserting “section 4811(c)”; and

(vi) amended in subsection (e) by striking “section 3132(d) of the National Defense Authorization Act for Fiscal Year 1991 (42 U.S.C. 7257a(d))” and inserting “section 4811(d)”.

(B) LIMITATION ON USE OF FUNDS FOR CERTAIN RESEARCH AND DEVELOPMENT PURPOSES.—Section 3136 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2830), as amended by section 3137 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2038), is—

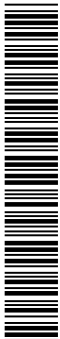
(i) transferred to title XLVIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4812A;

(iii) inserted after section 4812, as added by subparagraph (A); and

(iv) amended in subsection (a) by inserting “of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201)” after “section 3101”.

(8) CRITICAL TECHNOLOGY PARTNERSHIPS.—Section 3136 of the National Defense Authorization Act for Fiscal





## 31–69

1       Years 1992 and 1993 (Public Law 102–190; 105 Stat.  
2       1577), as amended by section 203(b)(3) of Public Law  
3       103–35 (107 Stat. 102), is—

4               (A) transferred to title XLVIII of the Bob Stump  
5       National Defense Authorization Act for Fiscal Year  
6       2003, as amended by this subsection;

7               (B) redesignated as section 4813; and

8               (C) inserted after section 4812A, as added by  
9       paragraph (7)(B).

10       (9) UNIVERSITY-BASED RESEARCH COLLABORATION  
11       PROGRAM.—Section 3155 of the National Defense Author-  
12       ization Act for Fiscal Year 1998 (Public Law 105–85; 111  
13       Stat. 2044) is—

14               (A) transferred to title XLVIII of the Bob Stump  
15       National Defense Authorization Act for Fiscal Year  
16       2003, as amended by this subsection;

17               (B) redesignated as section 4814;

18               (C) inserted after section 4813, as added by para-  
19       graph (8); and

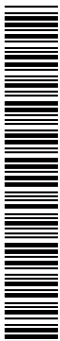
20               (D) amended in subsection (c) by striking “this  
21       title” and inserting “title XXXI of the National De-  
22       fense Authorization Act for Fiscal Year 1998 (Public  
23       Law 105–85)”.

24       (10) SUBTITLE HEADING ON FACILITIES MANAGE-  
25       MENT.—Title XLVIII of the Bob Stump National Defense  
26       Authorization Act for Fiscal Year 2003, as amended by  
27       this subsection, is further amended by adding at the end  
28       the following new subtitle heading:

29       **“Subtitle C—Facilities Management”.**

30       (11) TRANSFERS OF REAL PROPERTY AT CERTAIN FA-  
31       CILITIES.—Section 3158 of the National Defense Author-  
32       ization Act for Fiscal Year 1998 (Public Law 105–85; 111  
33       Stat. 2046) is—

34               (A) transferred to title XLVIII of the Bob Stump  
35       National Defense Authorization Act for Fiscal Year  
36       2003, as amended by this subsection;



## 31–70

1 (B) redesignated as section 4831; and  
2 (C) inserted after the heading for subtitle C of  
3 such title, as added by paragraph (10).

4 (12) ENGINEERING AND MANUFACTURING RESEARCH,  
5 DEVELOPMENT, AND DEMONSTRATION AT CERTAIN NU-  
6 CLEAR WEAPONS PRODUCTION PLANTS.—Section 3156 of  
7 the Floyd D. Spence National Defense Authorization Act  
8 for Fiscal Year 2001 (as enacted into law by Public Law  
9 106–398; 114 Stat. 1654A–467) is—

10 (A) transferred to title XLVIII of the Bob Stump  
11 National Defense Authorization Act for Fiscal Year  
12 2003, as amended by this subsection;

13 (B) redesignated as section 4832; and

14 (C) inserted after section 4831, as added by para-  
15 graph (11).

16 (13) PILOT PROGRAM ON USE OF PROCEEDS OF DIS-  
17 POSAL OR UTILIZATION OF CERTAIN ASSETS.—Section  
18 3138 of the National Defense Authorization Act for Fiscal  
19 Year 1998 (Public Law 105–85; 111 Stat. 2039) is—

20 (A) transferred to title XLVIII of the Bob Stump  
21 National Defense Authorization Act for Fiscal Year  
22 2003, as amended by this subsection;

23 (B) redesignated as section 4833;

24 (C) inserted after section 4832, as added by para-  
25 graph (12); and

26 (D) amended in subsection (d) by striking “sec-  
27 tions 202 and 203(j) of the Federal Property and Ad-  
28 ministrative Services Act of 1949 (40 U.S.C. 483 and  
29 484(j))” and inserting “subchapter II of chapter 5 and  
30 section 549 of title 40, United States Code,”.

31 (14) SUBTITLE HEADING ON OTHER MATTERS.—Title  
32 XLVIII of the Bob Stump National Defense Authorization  
33 Act for Fiscal Year 2003, as amended by this subsection,  
34 is further amended by adding at the end the following new  
35 subtitle heading:



31–71

**“Subtitle D—Other Matters”.**

(15) SEMIANNUAL REPORTS ON LOCAL IMPACT ASSISTANCE.—Subsection (f) of section 3153 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2044) is—

(A) transferred to title XLVIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after the heading for subtitle D of such title, as added by paragraph (14); and

(C) amended—

(i) by inserting before the text the following new section heading:

**“SEC. 4851. SEMIANNUAL REPORTS ON LOCAL IMPACT ASSISTANCE.”;**

(ii) by striking “(f) SEMIANNUAL REPORTS TO CONGRESS OF LOCAL IMPACT ASSISTANCE.—”; and

(iii) by striking “section 3161(c)(6) of the National Defense Authorization Act of 1993 (42 U.S.C. 7274h(c)(6))” and inserting “section 4604(c)(6)”.

(16) PAYMENT OF COSTS OF OPERATION AND MAINTENANCE OF INFRASTRUCTURE AT NEVADA TEST SITE.—Section 3144 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2838) is—

(A) transferred to title XLVIII of such Act, as amended by this subsection;

(B) redesignated as section 4852; and

(C) inserted after section 4851, as added by paragraph (15).

(m) CONFORMING AMENDMENTS.—(1) Title XXXVI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 1756) is repealed.



## 31–72

1           (2) Subtitle E of title XXXI of the National Defense Au-  
2     thorization Act for Fiscal Year 1993 (Public Law 102–484; 42  
3     U.S.C. 7274h et seq.) is repealed.

4           (3) Section 8905a(d)(5)(A) of title 5, United States Code,  
5     is amended by striking “section 3143 of the National Defense  
6     Authorization Act for Fiscal Year 1997 (42 U.S.C. 7274n)”  
7     and inserting “section 4421 of the Atomic Energy Defense  
8     Act”.

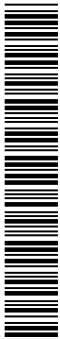


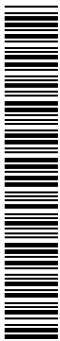
32-1

1       **TITLE XXXII—DEFENSE NUCLEAR**  
2       **FACILITIES SAFETY BOARD**

3       **SEC. 3201. AUTHORIZATION.**

4           There are authorized to be appropriated for fiscal year  
5   2004, \$19,559,000 for the operation of the Defense Nuclear  
6   Facilities Safety Board under chapter 21 of the Atomic Energy  
7   Act of 1954 (42 U.S.C. 2286 et seq.).





33-1

1 **TITLE XXXIII—NATIONAL DEFENSE**  
2 **STOCKPILE**

Sec. 3301. Authorized uses of National Defense Stockpile funds.

Sec. 3302. Revisions to required receipt objectives for previously authorized disposals from National Defense Stockpile.

3 **SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE**  
4 **STOCKPILE FUNDS.**

5 (a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal  
6 year 2004, the National Defense Stockpile Manager may obli-  
7 gate up to \$69,701,000 of the funds in the National Defense  
8 Stockpile Transaction Fund established under subsection (a) of  
9 section 9 of the Strategic and Critical Materials Stock Piling  
10 Act (50 U.S.C. 98h) for the authorized uses of such funds  
11 under subsection (b)(2) of such section, including the disposal  
12 of hazardous materials that are environmentally sensitive.

13 (b) ADDITIONAL OBLIGATIONS.—The National Defense  
14 Stockpile Manager may obligate amounts in excess of the  
15 amount specified in subsection (a) if the National Defense  
16 Stockpile Manager notifies Congress that extraordinary or  
17 emergency conditions necessitate the additional obligations. The  
18 National Defense Stockpile Manager may make the additional  
19 obligations described in the notification after the end of the 45-  
20 day period beginning on the date on which Congress receives  
21 the notification.

22 (c) LIMITATIONS.—The authorities provided by this sec-  
23 tion shall be subject to such limitations as may be provided in  
24 appropriations Acts.

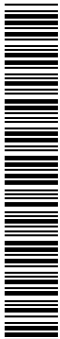
25 **SEC. 3302. REVISIONS TO REQUIRED RECEIPT OBJEC-**  
26 **TIVES FOR PREVIOUSLY AUTHORIZED DIS-**  
27 **POSALS FROM NATIONAL DEFENSE STOCK-**  
28 **PILE.**

29 Section 3402 of the National Defense Authorization Act  
30 for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 972; 50  
31 U.S.C. 98d note) is amended—

32 (1) in subsection (b)—

33 (A) by striking “and” at the end of paragraph (2);

34 and



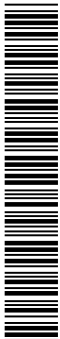
## 33-2

1 (B) by striking paragraph (3) and inserting the  
2 following new paragraphs:

3 “(3) \$340,000,000 before the end of fiscal year 2005;  
4 and

5 “(4) \$450,000,000 before the end of fiscal year  
6 2013.”; and

7 (2) in subsection (e), by adding at the end the fol-  
8 lowing new sentence: “The disposal of materials under this  
9 section to achieve the receipt levels specified in subsection  
10 (b), within the time periods specified in subsection, shall be  
11 in addition to any routine and on-going disposals used to  
12 fund operations of the National Defense Stockpile.”.





34-1

1     **TITLE XXXIV—NAVAL PETROLEUM**  
2                     **RESERVES**

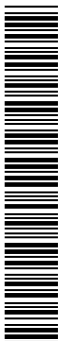
Sec. 3401. Authorization of appropriations.

3     **SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.**

4             (a) AMOUNT.—There are hereby authorized to be appro-  
5     priated to the Secretary of Energy \$16,500,000 for fiscal year  
6     2004 for the purpose of carrying out activities under chapter  
7     641 of title 10, United States Code, relating to the naval petro-  
8     leum reserves.

9             (b) PERIOD OF AVAILABILITY.—Funds appropriated pur-  
10    suant to the authorization of appropriations in subsection (a)  
11    shall remain available until expended.





35–1

1  
2**TITLE XXXV—MARITIME  
ADMINISTRATION**

Sec. 3501. Short title.

Subtitle A—Maritime Administration Reauthorization

Sec. 3511. Authorization of appropriations for fiscal years 2004, 2005, 2006, 2007, and 2008.

Sec. 3512. Conveyance of obsolete vessels under title V, Merchant Marine Act, 1936.

Sec. 3513. Authority to convey vessel USS HOIST (ARS–40).

Sec. 3514. Cargo preference.

Sec. 3515. Maritime education and training.

Sec. 3516. Authority to convey obsolete vessels to U.S. territories and foreign countries for reefing.

Sec. 3517. Maintenance and repair reimbursement pilot program.

Subtitle B—Amendments to Title XI Loan Guarantee Program

Sec. 3521. Equity payments by obligor for disbursement prior to termination of escrow agreement.

Sec. 3522. Waivers of program requirements.

Sec. 3523. Project monitoring.

Sec. 3524. Defaults.

Sec. 3525. Decision period.

Sec. 3526. Loan guarantees.

Sec. 3527. Annual report on program.

Sec. 3528. Review of program.

Subtitle C—Maritime Security Fleet

Sec. 3531. Establishment of Maritime Security Fleet.

Sec. 3532. Related amendments to existing law.

Sec. 3533. Interim rules.

Sec. 3534. Repeals and conforming amendments.

Sec. 3535. GAO study of adjustment of operating agreement payment criteria.

Sec. 3536. Definitions.

Sec. 3537. Effective dates.

Subtitle D—National Defense Tank Vessel Construction Assistance

Sec. 3541. National defense tank vessel construction program.

Sec. 3542. Application procedure.

Sec. 3543. Award of assistance.

Sec. 3544. Priority for title XI assistance.

Sec. 3545. Definitions.

Sec. 3546. Authorization of appropriations.

3 **SEC. 3501. SHORT TITLE.**

4 This title may be cited as the “Maritime Security Act of  
5 2003”.



35-2

## Subtitle A—Maritime Administration Reauthorization

### SEC. 3511. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 2004, 2005, 2006, 2007, AND 2008.

There are authorized to be appropriated to the Secretary of Transportation for the Maritime Administration—

(1) for expenses necessary for operations and training activities, not to exceed \$104,400,000 for the fiscal year ending September 30, 2004, \$106,000,000 for the fiscal year ending September 2005, and \$109,000,000 for the fiscal year ending September 30, 2006, \$111,000,000 for the fiscal year ending September 30, 2007, and \$113,000,000 for the fiscal year ending September 30, 2008;

(2) for expenses under the loan guarantee program authorized by title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et. seq.), \$36,000,000 for each of fiscal years 2004, 2005, 2006, 2007, and 2008 of which—

(A) \$30,000,000 shall be for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees under the program; and

(B) \$6,000,000 shall be for administrative expenses related to loan guarantee commitments under the program; and

(3) for ship disposal, \$18,422,000 for fiscal year 2004, \$11,422,000 for each of fiscal years 2005 and 2006, and \$12,000,000 for each of fiscal years 2007 and 2008.

### SEC. 3512. CONVEYANCE OF OBSOLETE VESSELS UNDER TITLE V, MERCHANT MARINE ACT, 1936.

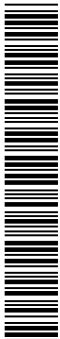
Section 508 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1158) is amended—

(1) by inserting “(a) AUTHORITY TO SCRAP OR SELL OBSOLETE VESSELS.—” before “If”; and

(2) by adding at the end the following:

“(b) AUTHORITY TO CONVEY VESSELS.—

“(1) IN GENERAL.—Notwithstanding section 510(j) of this Act, the Secretary of Transportation may convey the



35-3

1 right, title, and interest of the United States Government  
2 in any vessel of the National Defense Reserve Fleet that  
3 has been identified by the Secretary as an obsolete vessel  
4 of insufficient value to warrant its further preservation,  
5 if—

6 “(A) the recipient is a non-profit organization, a  
7 State, Commonwealth, or possession of the United  
8 States or any municipal corporation or political subdivi-  
9 sion thereof, or the District of Columbia;

10 “(B) the recipient agrees not to use, or allow oth-  
11 ers to use, the vessel for commercial transportation  
12 purposes;

13 “(C) the recipient agrees to make the vessel avail-  
14 able to the Government whenever the Secretary indi-  
15 cates that it is needed by the Government;

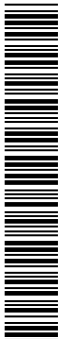
16 “(D) the recipient agrees to hold the Government  
17 harmless for any claims arising from exposure to asbes-  
18 tos, polychlorinated biphenyls, lead paint, or other haz-  
19 ardous substances after conveyance of the vessel, except  
20 for claims arising from use of the vessel by the Govern-  
21 ment;

22 “(E) the recipient has a conveyance plan and a  
23 business plan that describes the intended use of the  
24 vessel, each of which have been submitted to and ap-  
25 proved by the Secretary;

26 “(F) the recipient has provided proof, as deter-  
27 mined by the Secretary, of resources sufficient to ac-  
28 complish the transfer, necessary repairs and modifica-  
29 tions, and initiation of the intended use of the vessel;  
30 and

31 “(G) the recipient agrees that when the recipient  
32 no longer requires the vessel for use as described in the  
33 business plan required under subparagraph (E)—

34 “(i) the recipient will, at the discretion of the  
35 Secretary, reconvey the vessel to the Government in  
36 good condition except for ordinary wear and tear;  
37 or



1 “(ii) if the Board of Trustees of the recipient  
2 has decided to dissolve the recipient according to  
3 the laws of the State in which the recipient is in-  
4 corporated, then—

5 “(I) the recipient shall distribute the ves-  
6 sel, as an asset of the recipient, to a person  
7 that has been determined exempt from taxation  
8 under the provisions of section 501(c)(3) of the  
9 Internal Revenue Code, or to the Federal Gov-  
10 ernment or a State or local government for a  
11 public purpose; and

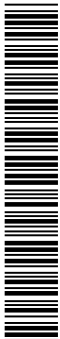
12 “(II) the vessel shall be disposed of by a  
13 court of competent jurisdiction of the county in  
14 which the principal office of the recipient is lo-  
15 cated, for such purposes as the court shall de-  
16 termine, or to such organizations as the court  
17 shall determine are organized exclusively for  
18 public purposes.

19 “(2) OTHER EQUIPMENT.—At the Secretary’s discre-  
20 tion, additional equipment from other obsolete vessels of  
21 the National Defense Reserve Fleet may be conveyed to as-  
22 sist the recipient with maintenance, repairs, or modifica-  
23 tions.

24 “(3) ADDITIONAL TERMS.—The Secretary may require  
25 any additional terms the Secretary considers appropriate.

26 “(4) DELIVERY OF VESSEL.—If conveyance is made  
27 under this subsection the vessel shall be delivered to the re-  
28 cipient at a time and place to be determined by the Sec-  
29 retary. The vessel shall be conveyed in an ‘as is’ condition.

30 “(5) LIMITATIONS.—If at any time prior to delivery of  
31 the vessel to the recipient, the Secretary determines that a  
32 different disposition of a vessel would better serve the inter-  
33 ests of the Government, the Secretary shall pursue the  
34 more favorable disposition of the obsolete vessel and shall  
35 not be liable for any damages that may result from an in-  
36 tended recipient’s reliance upon a proposed transfer.



1 “(6) REVERSION.—The Secretary shall include in any  
2 conveyance under this subsection terms under which all  
3 right, title, and interest conveyed by the Secretary shall re-  
4 vert to the United States if the Secretary determines the  
5 vessel has been used other than as described in the busi-  
6 ness plan required under paragraph (1)(E).”.

7 **SEC. 3513. AUTHORITY TO CONVEY VESSEL USS HOIST**  
8 **(ARS-40).**

9 (a) IN GENERAL.—Notwithstanding section 510(j) of the  
10 Merchant Marine Act, 1936 (46 App. U.S.C. 1160(j)), the Sec-  
11 retary of Transportation may convey the right, title, and inter-  
12 est of the United States Government in and to the vessel USS  
13 HOIST (ARS-40), to the Last Patrol Museum, located in To-  
14 ledo, Ohio (a not-for-profit corporation, in this section referred  
15 to as the “recipient”), for use as a military museum, if—

16 (1) the recipient agrees to use the vessel as a non-  
17 profit military museum;

18 (2) the recipient agrees not to use, or allow others to  
19 use, the vessel for commercial transportation purposes;

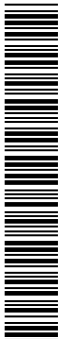
20 (3) the recipient agrees to make the vessel available to  
21 the Government whenever the Secretary indicates that it is  
22 needed by the Government;

23 (4) the recipient agrees that when the recipient no  
24 longer requires the vessel for use as a military museum—

25 (A) the recipient will, at the discretion of the Sec-  
26 retary, reconvey the vessel to the Government in good  
27 condition except for ordinary wear and tear; or

28 (B) if the Board of Trustees of the recipient has  
29 decided to dissolve the recipient according to the laws  
30 of the State in which the recipient is incorporated,  
31 then—

32 (i) the recipient shall distribute the vessel, as  
33 an asset of the recipient, to a person that has been  
34 determined exempt from taxation under the provi-  
35 sions of section 501(c)(3) of the Internal Revenue  
36 Code, or to the Federal Government or a State or  
37 local government for a public purpose; and



(ii) the vessel shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the recipient is located, for such purposes as the court shall determine, or to such organizations as the court shall determine are organized exclusively for public purposes;

(5) the recipient agrees to hold the Government harmless for any claims arising from exposure to asbestos, polychlorinated biphenyls, lead paint, or other hazardous substances after conveyance of the vessel, except for claims arising from use of the vessel by the Government;

(6) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least \$100,000; and

(7) the recipient has a conveyance plan and a business plan that describes the intended use of the vessel, each of which have been submitted to and approved by the Secretary.

(b) DELIVERY OF VESSEL.—If a conveyance is made under this section, the Secretary shall deliver the vessel at the place where the vessel is located on the date of enactment of this Act, in its present condition, and without cost to the Government.

(c) OTHER UNNEEDED EQUIPMENT.—The Secretary may also convey any unneeded equipment from other vessels in the National Defense Reserve Fleet in order to restore the USS HOIST (ARS–40) to museum quality.

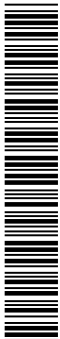
(d) RETENTION OF VESSEL IN NDRF.—

(1) IN GENERAL.—The Secretary shall retain in the National Defense Reserve Fleet the vessel authorized to be conveyed under subsection (a), until the earlier of—

(A) 2 years after the date of the enactment of this Act; or

(B) the date of conveyance of the vessel under subsection (a).

(2) LIMITATION.—Paragraph (1) does not require the Secretary to retain the vessel in the National Defense Re-





1           serve Fleet if the Secretary determines that retention of the  
2           vessel in the fleet will pose an unacceptable risk to the ma-  
3           rine environment.

4       **SEC. 3514. CARGO PREFERENCE.**

5           Section 901b(c)(2) of the Merchant Marine Act, 1936 (46  
6       U.S.C. App. 1241f(c)(2)) is amended by striking “1986.” and  
7       inserting “1986, the 18-month period beginning April 1, 2002,  
8       and the 12-month period beginning October 1, 2003, and each  
9       year thereafter.”.

10      **SEC. 3515. MARITIME EDUCATION AND TRAINING.**

11           (a) COST OF EDUCATION DEFINED.—Section 1302 of the  
12       Merchant Marine Act, 1936 (46 U.S.C. App. 1295a) is  
13       amended—

14           (1) by striking “and” after the semicolon in paragraph  
15       (3);

16           (2) by striking “States.” in paragraph (4)(B) and in-  
17       serting “States; and”; and

18           (3) by adding at the end the following:

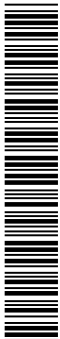
19           “(5) the term ‘cost of education provided’ means the  
20       financial costs incurred by the Federal Government for pro-  
21       viding training or financial assistance to students at the  
22       United States Merchant Marine Academy and the State  
23       maritime academies, including direct financial assistance,  
24       room, board, classroom academics, and other training ac-  
25       tivities.”.

26           (b) COMMITMENT AGREEMENTS.—Section 1303(e) of the  
27       Merchant Marine Act, 1936 (46 U.S.C. App. 1295b(e)) is  
28       amended—

29           (1) by striking “Academy, unless the individual is sep-  
30       arated from the” in paragraph (1)(A);

31           (2) by striking paragraph (1)(C) and inserting the fol-  
32       lowing:

33           “(C) to maintain a valid license as an officer in the  
34       merchant marine of the United States for at least 6 years  
35       following the date of graduation from the Academy of such  
36       individual, accompanied by the appropriate national and  
37       international endorsements and certification as required by



1 the United States Coast Guard for service aboard vessels  
2 on domestic and international voyages;”;

3 (3) by striking paragraph (1)(E)(iii) and inserting the  
4 following:

5 “(iii) as a commissioned officer on active duty in  
6 an armed force of the United States, as a commis-  
7 sioned officer in the National Oceanic and Atmospheric  
8 Administration, or other maritime-related employment  
9 with the Federal Government which serves the national  
10 security interests of the United States, as determined  
11 by the Secretary; or”;

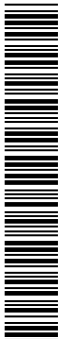
12 (4) by striking paragraph (2) and inserting the fol-  
13 lowing:

14 “(2)(A) If the Secretary determines that any individual  
15 who has attended the Academy for not less than 2 years has  
16 failed to fulfill the part of the agreement required by paragraph  
17 (1)(A), such individual may be ordered by the Secretary of De-  
18 fense to active duty in one of the armed forces of the United  
19 States to serve for a period of time not to exceed 2 years. In  
20 cases of hardship as determined by the Secretary, the Secretary  
21 may waive this provision in whole or in part.

22 “(B) If the Secretary of Defense is unable or unwilling to  
23 order an individual to active duty under subparagraph (A), or  
24 if the Secretary of Transportation determines that reimburse-  
25 ment of the cost of education provided would better serve the  
26 interests of the United States, the Secretary may recover from  
27 the individual the cost of education provided by the Federal  
28 Government.”;

29 (5) by striking paragraph (3) and inserting the fol-  
30 lowing:

31 “(3)(A) If the Secretary determines that an individual has  
32 failed to fulfill any part of the agreement required by para-  
33 graph (1), as described in subparagraphs (1)(B), (C), (D), (E),  
34 or (F), such individual may be ordered to active duty to serve  
35 a period of time not less than 3 years and not more than the  
36 unexpired portion, as determined by the Secretary, of the serv-  
37 ice required by paragraph (1)(E). The Secretary, in consulta-



1 tion with the Secretary of Defense, shall determine in which  
2 service the individual shall be ordered to active duty to serve  
3 such period of time. In cases of hardship, as determined by the  
4 Secretary, the Secretary may waive this provision in whole or  
5 in part.

6 “(B) If the Secretary of Defense is unable or unwilling to  
7 order an individual to active duty under subparagraph (A), or  
8 if the Secretary of Transportation determines that reimburse-  
9 ment of the cost of education provided would better serve the  
10 interests of the United States, the Secretary may recover from  
11 the individual the cost of education provided and may reduce  
12 the amount to be recovered from such individual to reflect par-  
13 tial performance of service obligations and such other factors  
14 as the Secretary determines merit such a reduction.”; and

15 (6) by redesignating paragraph (4) as paragraph (5)  
16 and inserting after paragraph (3) the following:

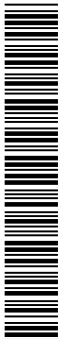
17 “(4) To aid in the recovery of the cost of education pro-  
18 vided by the Federal Government pursuant to a commitment  
19 agreement under this section, the Secretary may request the  
20 Attorney General to begin court proceedings, and the Secretary  
21 may make use of the Federal debt collection procedures in  
22 chapter 176 of title 28, United States Code, or other applicable  
23 administrative remedies.”.

24 (c) DEGREES AWARDED.—Section 1303(g) of the Mer-  
25 chant Marine Act, 1936 (46 U.S.C. App. 1295b(g)) is amended  
26 to read as follows:

27 “(g) DEGREES AWARDED.—

28 “(1) BACHELOR’S DEGREE.—The Superintendent of  
29 the Academy may confer the degree of bachelor of science  
30 upon any individual who has met the conditions prescribed  
31 by the Secretary and who, if a citizen of the United States,  
32 has passed the examination for a merchant marine officer’s  
33 license. No individual may be denied a degree under this  
34 subsection because the individual is not permitted to take  
35 such examination solely because of physical disqualification.

36 “(2) MASTER’S DEGREE.—The Superintendent of the  
37 Academy may confer a master’s degree upon any individual



1 who has met the conditions prescribed by the Secretary.  
2 Any master's degree program may be funded through non-  
3 appropriated funds. In order to maintain the appropriate  
4 academic standards, the program shall be accredited by the  
5 appropriate accreditation body. The Secretary may make  
6 regulations necessary to administer such a program.”.

7 (d) STUDENT INCENTIVE PAYMENTS.—Section 1304(g) of  
8 the Merchant Marine Act, 1936 (46 U.S.C. App. 1295c(g)) is  
9 amended—

10 (1) by striking “\$3,000” in paragraph (1) and insert-  
11 ing “\$4,000”;

12 (2) in paragraph (3)(A) by striking “attending, unless  
13 the individual is separated by such academy;” and inserting  
14 “attending;”;

15 (3) by striking paragraph (3)(C) and inserting the fol-  
16 lowing:

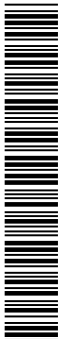
17 “(C) to maintain a valid license as an officer in the  
18 merchant marine of the United States for at least 6 years  
19 following the date of graduation from such State maritime  
20 academy of such individual, accompanied by the appro-  
21 priate national and international endorsements and certifi-  
22 cation as required by the United States Coast Guard for  
23 service aboard vessels on domestic and international voy-  
24 ages;”;

25 (4) by striking paragraph (3)(E)(iii) and inserting the  
26 following:

27 “(iii) as a commissioned officer on active duty in  
28 an armed force of the United States, as a commis-  
29 sioned officer in the National Oceanic and Atmospheric  
30 Administration, or in other maritime-related employ-  
31 ment with the Federal Government which serves the  
32 national security interests of the United States, as de-  
33 termined by the Secretary; or”;

34 (5) by striking paragraph (4) and inserting the fol-  
35 lowing:

36 “(4)(A) If the Secretary determines that an individual who  
37 has accepted the payment described in paragraph (1) for a



1 minimum of 2 academic years has failed to fulfill the part of  
2 the agreement required by paragraph (1) and described in  
3 paragraph (3)(A), such individual may be ordered by the Sec-  
4 retary of Defense to active duty in the Armed Forces of the  
5 United States to serve for a period of time not to exceed 2  
6 years. In cases of hardship, as determined by the Secretary, the  
7 Secretary may waive this provision in whole or in part.

8 “(B) If the Secretary of Defense is unable or unwilling to  
9 order an individual to active duty under subparagraph (A), or  
10 if the Secretary of Transportation determines that reimburse-  
11 ment of the cost of education provided would better serve the  
12 interests of the United States, the Secretary—

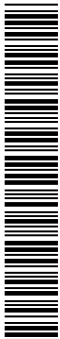
13 “(i) subject to clause (ii), may recover from the indi-  
14 vidual the amount of student incentive payments, plus in-  
15 terest and attorneys fees; and

16 “(ii) may reduce the amount to be recovered from  
17 such individual to reflect partial performance of service ob-  
18 ligations and such other factors as the Secretary deter-  
19 mines merit such reduction.”;

20 (6) by striking paragraph (5) and inserting the fol-  
21 lowing:

22 “(5)(A) If the Secretary determines that an individual has  
23 failed to fulfill any part of the agreement required by para-  
24 graph (1), as described in paragraphs (3)(B), (C), (D), (E), or  
25 (F), such individual may be ordered to active duty to serve a  
26 period of time not less than 2 years and not more than the un-  
27 expired portion, as determined by the Secretary, of the service  
28 required by paragraph (3)(E). The Secretary, in consultation  
29 with the Secretary of Defense, shall determine in which service  
30 the individual shall be ordered to active duty to serve such pe-  
31 riod of time. In cases of hardship, as determined by the Sec-  
32 retary, the Secretary may waive this provision in whole or in  
33 part.

34 “(B) If the Secretary of Defense is unable or unwilling to  
35 order an individual to active duty under subparagraph (A), or  
36 if the Secretary of Transportation determines that reimburse-



1 ment of the cost of education provided would better serve the  
2 interests of the United States, the Secretary—

3 “(i) subject to clause (ii), may recover from the indi-  
4 vidual the amount of student incentive payments, plus in-  
5 terest and attorneys fees; and

6 “(ii) may reduce the amount to be recovered from  
7 such individual to reflect partial performance of service ob-  
8 ligations and such other factors as the Secretary deter-  
9 mines merit such reduction.”; and

10 (7) by redesignating paragraphs (6) and (7) as para-  
11 graphs (7) and (8), respectively, and inserting after para-  
12 graph (5) the following:

13 “(6) To aid in the recovery of student incentive payments  
14 plus interest and attorneys fees the Secretary may request the  
15 Attorney General to begin court proceedings, and the Secretary  
16 may make use of the Federal debt collection procedures in  
17 chapter 176 of title 28, United States Code, and other applica-  
18 ble administrative remedies.”.

19 (e) AWARDS AND MEDALS.—Section 1306 of the Merchant  
20 Marine Act, 1936 (46 U.S.C. App. 1295e) is amended by add-  
21 ing at the end the following:

22 “(d) AWARDS AND MEDALS.—The Secretary may establish  
23 and maintain a medals and awards program to recognize dis-  
24 tinguished service, superior achievement, professional perform-  
25 ance, and other commendable achievement by personnel of the  
26 United States Maritime Service.”.

27 **SEC. 3516. AUTHORITY TO CONVEY OBSOLETE VESSELS**  
28 **TO U.S. TERRITORIES AND FOREIGN COUN-**  
29 **TRIES FOR REEFING.**

30 (a) DEADLINE FOR PREPARATION.—Paragraph (1) of sec-  
31 tion 3504(b) of the Bob Stump National Defense Authorization  
32 Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat.  
33 2754; 16 U.S.C. 1220 note) is amended by striking “Sep-  
34 tember 30, 2003,” and inserting “March 31, 2004.”.

35 (b) GUIDANCE ON PRACTICES.—Such section is further  
36 amended—



## 35–13

1 (1) in paragraph (1), by inserting “guidance recom-  
2 mending” after “jointly develop”;

3 (2) in paragraph (2), by inserting “guidance recom-  
4 mending” before “environmental best management prac-  
5 tices”;

6 (3) in paragraph (3)—

7 (A) in subparagraph (A), by inserting “rec-  
8 ommended” after “include”;

9 (B) by striking subparagraph (B) and inserting  
10 the following new subparagraph (B)

11 “(B) promote consistent use of such practices nation-  
12 wide;”; and

13 (C) in subparagraph (C), by striking “establish  
14 baselines” and inserting “provide a basis”; and

15 (4) in paragraph (4), by striking “guidelines to be  
16 used by” and inserting “guidance for”.

17 (c) APPLICATIONS FOR PREPARATION OF VESSELS AS  
18 REEFS.—Such section is further amended—

19 (1) by redesignating paragraph (5) as paragraph (6);  
20 and

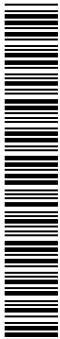
21 (2) by inserting after paragraph (4) the following new  
22 paragraph (5):

23 “(5) Not later than March 31, 2004, the Secretary of  
24 Transportation, acting through the Maritime Administration,  
25 and the Administrator of the Environmental Protection Agency  
26 shall jointly establish an application process for governments of  
27 States, commonwealths, and United States territories and pos-  
28 session, and foreign governments, for the preparation of vessels  
29 for use as artificial reefs, including documentation and certifi-  
30 cation requirements for that application process.”.

31 **SEC. 3517. MAINTENANCE AND REPAIR REIMBURSE-**  
32 **MENT PILOT PROGRAM.**

33 (a) AUTHORITY TO ENTER AGREEMENTS.—

34 (1) IN GENERAL.—The Secretary of Transportation  
35 may carry out a pilot program under which the Secretary  
36 may enter into an agreement with a contractor under chap-  
37 ter 531 of title 46, United States Code, as amended by this



35-14

1 Act, regarding maintenance and repair of a vessel that is  
2 subject to an operating agreement under that chapter.

3 (2) LIMITATION.—The Secretary may not require a  
4 person to enter into an agreement under this section, in-  
5 cluding as a condition of awarding an operating agreement  
6 to the person under chapter 531 of title 46, United States  
7 Code, as amended by this Act.

8 (b) TERMS OF AGREEMENT.—An agreement under this  
9 section—

10 (1) shall require that except as provided in subsection  
11 (c), all qualified maintenance or repair on the vessel shall  
12 be performed in the United States;

13 (2) shall require that the Secretary shall reimburse the  
14 contractor in accordance with subsection (d) for the costs  
15 of qualified maintenance or repair performed in the United  
16 States; and

17 (3) shall apply to maintenance and repair performed  
18 during the 5-year period beginning on the date the vessel  
19 begins operating under the operating agreement under  
20 chapter 531 of title 46, United States Code.

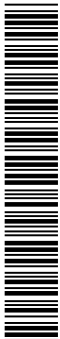
21 (c) EXCEPTION TO REQUIREMENT TO PERFORM WORK IN  
22 THE UNITED STATES.—A contractor shall not be required to  
23 have qualified maintenance or repair work performed in the  
24 United States under this section, if the Secretary determines  
25 that—

26 (1) there is no facility in the United States available  
27 to perform the work; or

28 (2) there is not available to the Secretary sufficient  
29 funds to pay reimbursement under subsection (d) with re-  
30 spect to the work.

31 (d) REIMBURSEMENT.—

32 (1) IN GENERAL.—The Secretary shall, subject to the  
33 availability of appropriations, reimburse a contractor for  
34 costs incurred by the contractor for qualified maintenance  
35 or repair performed in the United States under this sec-  
36 tion.





35-15

(2) AMOUNT.—The amount of reimbursement shall be equal to 80 percent of the difference between—

(A) the fair and reasonable cost of obtaining the qualified maintenance or repair in the United States; and

(B) the fair and reasonable cost of obtaining the qualified maintenance or repair outside the United States, in the geographic region in which the vessel generally operates.

(3) DETERMINATION OF FAIR AND REASONABLE COSTS.—The Secretary shall determine fair and reasonable costs for purposes of paragraph (2).

(e) NOTIFICATION REQUIREMENTS.—

(1) NOTIFICATION BY CONTRACTOR.—The Secretary is not required to pay reimbursement to a contractor under this section for qualified maintenance or repair, unless the contractor—

(A) notifies the Secretary of the intent of the contractor to obtain the qualified maintenance or repair, by not later than 180 days before the date of the performance of the qualified maintenance or repair; and

(B) includes in such notification—

(i) a description of all qualified maintenance or repair that the contractor should reasonably expect may be performed;

(ii) an estimate of the cost of obtaining such qualified maintenance or repair in the United States; and

(iii) an estimate of the cost of obtaining such qualified maintenance or repair outside the United States, in the geographic region in which the vessel generally operates.

(2) CERTIFICATION BY SECRETARY.—Not later than 60 days after the date of receipt of notification under paragraph (1), the Secretary shall certify to the contractor—

(A) whether there is a facility in the United States available to perform the qualified maintenance or re-



## 35–16

1 pair described in the notification by the contractor  
2 under paragraph (1); and

3 (B) whether there is available to the Secretary suf-  
4 ficient funds to pay reimbursement under subsection  
5 (d) with respect to such work.

6 (f) QUALIFIED MAINTENANCE OR REPAIR DEFINED.—In  
7 this section the term “qualified maintenance or repair”—

8 (1) except as provided in paragraph (2), means—

9 (A) any inspection of a vessel that is—

10 (i) required under chapter 33 of title 46,  
11 United States Code; and

12 (ii) performed in the period in which the vessel  
13 is subject to an agreement under this section; and

14 (B) any maintenance or repair of a vessel that is  
15 determined, in the course of an inspection referred to  
16 in subparagraph (A), to be necessary to comply with  
17 the laws of the United States; and

18 (2) does not include—

19 (A) routine maintenance or repair; or

20 (B) any emergency work that is necessary to en-  
21 able a vessel to return to a port in the United States.

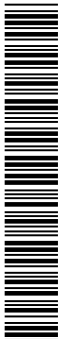
22 (g) ANALYSIS.—

23 (1) IN GENERAL.—Not later than October 1, 2004,  
24 the Secretary of Transportation shall submit to the Com-  
25 mittee on Armed Services of the House of Representatives  
26 and the Committee on Armed Services and the Committee  
27 on Commerce, Science, and Transportation of the Senate,  
28 an analysis of the need for agreements authorized by this  
29 section.

30 (2) CONDUCT AND CONSIDERATIONS.—In conducting  
31 the analysis, the Secretary shall consider the overall costs  
32 and benefits of the pilot program, including the following:

33 (A) The impact on operations of vessels in the pro-  
34 gram.

35 (B) The availability of repair shipyards and dry-  
36 docks in the various regions of the United States (as



1 that term is defined in such chapter) that are capable  
2 of handling such vessels that are ocean-going vessels.

3 (C) The experience of such shipyards in repairing  
4 the types of such vessels.

5 (D) A comparison of drydock and repair costs be-  
6 tween available United States and foreign shipyards lo-  
7 cated within the geographic range of the trading area  
8 of such vessels.

9 (E) A comparison of the time period required for  
10 the drydocking and repair of such vessels between  
11 available United States shipyards and foreign ship-  
12 yards.

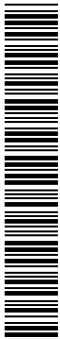
13 (F) The impact of the voyage deviation of such  
14 vessels to United States shipyards.

15 (G) The benefits to the Department of Defense of  
16 having a vessel repair base in the United States to ac-  
17 celerate the activation of the Ready Reserve Fleet.

18 (H) The benefits of extending the program to all  
19 vessels that are subject to operating agreements under  
20 chapter 531 of title 46 United States Code, as amend-  
21 ed by this Act.

22 (3) RECOMMENDATIONS.—The Secretary shall include  
23 in the analysis recommendations of any additional incen-  
24 tives that are necessary to encourage participation in the  
25 program.

26 (h) AUTHORIZATION OF APPROPRIATIONS.—In addition to  
27 the other amounts authorized by this subtitle, for reimburse-  
28 ment of costs of qualified maintenance or repair under this sec-  
29 tion there is authorized to be appropriated to the Secretary of  
30 Transportation \$19,500,000 for each of fiscal years 2006  
31 through 2011.



**Subtitle B—Amendments to Title XI**  
**Loan Guarantee Program**

**SEC. 3521. EQUITY PAYMENTS BY OBLIGOR FOR DISBURSEMENT PRIOR TO TERMINATION OF ESCROW AGREEMENT.**

(a) IN GENERAL.—Section 1108 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279a) is amended by adding at the end the following:

“(g) PAYMENTS REQUIRED BEFORE DISBURSEMENT.—

“(1) IN GENERAL.—No disbursement shall be made under subsection (b) to any person until the total amount paid by or for the account of the obligor from sources other than the proceeds of the obligation equals at least 25 percent or 12½ percent, whichever is applicable under section 1104A, of the aggregate actual cost of the vessel, as previously approved by the Secretary. If the aggregate actual cost of the vessel has increased since the Secretary’s initial approval or if it increases after the first disbursement is permitted under this subsection, then no further disbursements shall be made under subsection (b) until the total amount paid by or for the account of the obligor from sources other than the proceeds of the obligation equals at least 25 percent or 12½ percent, as applicable, of the increase, as determined by the Secretary, in the aggregate actual cost of the vessel. Nothing in this paragraph shall require the Secretary to consent to finance any increase in actual cost unless the Secretary determines that such an increase in the obligation meets all the terms and conditions of this title or other applicable law.

“(2) DOCUMENTED PROOF OF PROGRESS REQUIREMENT.—The Secretary shall, by regulation, establish a transparent, independent, and risk-based process for verifying and documenting the progress of projects under construction before disbursing guaranteed loan funds. At a minimum, the process shall require documented proof of progress in connection with the construction, reconstruction, or reconditioning of a vessel or vessels before dis-



1       bursements are made from the escrow fund. The Secretary  
2       may require that the obligor provide a certificate from an  
3       independent party certifying that the requisite progress in  
4       construction, reconstruction, or reconditioning has taken  
5       place.”.

6       (b) DEFINITION OF ACTUAL COST.—Section 1101(f) of  
7       the Merchant Marine Act, 1936 (46 U.S.C. App. 1271(f)) is  
8       amended to read as follows:

9       “(f) ACTUAL COST DEFINED.—The term ‘actual cost’  
10      means the sum of—

11       “(1) all amounts paid by or for the account of the ob-  
12      ligor as of the date on which a determination is made  
13      under section 1108(g)(1); and

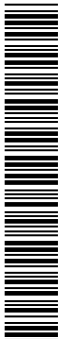
14       “(2) all amounts that the Secretary reasonably esti-  
15      mates that the obligor will become obligated to pay from  
16      time to time thereafter, for the construction, reconstruc-  
17      tion, or reconditioning of the vessel, including guarantee  
18      fees that will become payable under section 1104A(e) in  
19      connection with all obligations issued for construction, re-  
20      construction, or reconditioning of the vessel or equipment  
21      to be delivered, and all obligations issued for the delivered  
22      vessel or equipment.”.

23      **SEC. 3522. WAIVERS OF PROGRAM REQUIREMENTS.**

24       Section 1104A(d) of the Merchant Marine Act, 1936 (46  
25      U.S.C. App. 1274(d)) is amended by redesignating paragraph  
26      (4) as paragraph (5), and inserting after paragraph (3) the fol-  
27      lowing:

28       “(4) The Secretary shall promulgate regulations con-  
29      cerning circumstances under which waivers of or exceptions  
30      to otherwise applicable regulatory requirements concerning  
31      financial condition can be made. The regulations shall re-  
32      quire that—

33       “(A) the economic soundness requirements set  
34      forth in paragraph (1)(A) of this subsection are met  
35      after the waiver of the financial condition requirement;  
36      and



1 “(B) the waiver shall provide for the imposition of  
2 other requirements on the obligor designed to com-  
3 pensate for the increased risk associated with the obli-  
4 gor’s failure to meet regulatory requirements applicable  
5 to financial condition.”.

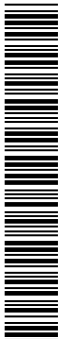
6 **SEC. 3523. PROJECT MONITORING.**

7 (a) PROJECT MONITORING.—Section 1104A of the Mer-  
8 chant Marine Act, 1936 (46 U.S.C. App. 1274) is amended by  
9 adding at the end the following:

10 “(k) MONITORING.— The Secretary shall monitor the fi-  
11 nancial conditions and operations of the obligor on a regular  
12 basis during the term of the guarantee. The Secretary shall  
13 document the results of the monitoring on an annual or quar-  
14 terly basis depending upon the condition of the obligor. If the  
15 Secretary determines that the financial condition of the obligor  
16 warrants additional protections to the Secretary, then the Sec-  
17 retary shall take appropriate action under subsection (m) of  
18 this section. If the Secretary determines that the financial con-  
19 dition of the obligor jeopardizes its continued ability to perform  
20 its responsibilities in connection with the guarantee of obliga-  
21 tions by the Secretary, the Secretary shall make an immediate  
22 determination whether default should take place and whether  
23 further measures described in subsection (m) should be taken  
24 to protect the interests of the Secretary while insuring that  
25 program objectives are met.”.

26 (b) SEPARATION OF DUTIES AND OTHER REQUIRE-  
27 MENTS.—Section 1104A of the Merchant Marine Act, 1936 (46  
28 U.S.C. App. 1274), as amended by subsection (a), is further  
29 amended by adding at the end the following:

30 “(l) REVIEW OF APPLICATIONS.—No commitment to guar-  
31 antee, or guarantee of, an obligation shall be made by the Sec-  
32 retary unless the Secretary certifies that a full and fair consid-  
33 eration of all the regulatory requirements, including economic  
34 soundness and financial requirements applicable to obligors and  
35 related parties, and a thorough assessment of the technical,  
36 economic, and financial aspects of the loan application has been  
37 made.



1           “(m) AGREEMENT WITH OBLIGOR.—The Secretary shall  
2 include provisions in loan agreements with obligors that provide  
3 additional authority to the Secretary to take action to limit po-  
4 tential losses in connection with defaulted loans or loans that  
5 are in jeopardy due to the deteriorating financial condition of  
6 obligors. Provisions that the Secretary shall include in loan  
7 agreements include requirements for additional collateral or  
8 greater equity contributions that are effective upon the occur-  
9 rence of verifiable conditions relating to the obligors financial  
10 condition or the status of the vessel or shipyard project.”.

11 **SEC. 3524. DEFAULTS.**

12           Section 1105 of the Merchant Marine Act, 1936 (46  
13 U.S.C. App. 1275) is amended by adding at the end the fol-  
14 lowing:

15           “(f) DEFAULT RESPONSE.—In the event of default on a  
16 obligation, the Secretary shall conduct operations under this  
17 title in a manner which—

18                   “(1) maximizes the net present value return from the  
19 sale or disposition of assets associated with the obligation,  
20 including prompt referral to the Attorney General for col-  
21 lection as appropriate;

22                   “(2) minimizes the amount of any loss realized in the  
23 resolution of the guarantee;

24                   “(3) ensures adequate competition and fair and con-  
25 sistent treatment of offerors; and

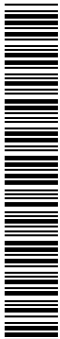
26                   “(4) requires appraisal of assets by an independent  
27 appraiser.”.

28 **SEC. 3525. DECISION PERIOD.**

29           Section 1104A of the Merchant Marine Act, 1936 (46  
30 U.S.C. App. 1274), as amended by section 3523, is amended  
31 by adding at the end the following:

32           “(n) DECISION PERIOD.—

33                   “(1) IN GENERAL.—The Secretary of Transportation  
34 shall approve or deny an application for a loan guarantee  
35 under this title within 270 days after the date on which the  
36 signed application is received by the Secretary.



35-22

1 “(2) EXTENSION.—Upon request by an applicant, the  
2 Secretary may extend the 270-day period in paragraph (1)  
3 to a date not later than 2 years after the date on which  
4 the signed application for the loan guarantee was received  
5 by the Secretary.”.

6 **SEC. 3526. LOAN GUARANTEES.**

7 Section 1104A of the Merchant Marine Act, 1936 (46  
8 U.S.C. App. 1274) is amended—

9 (1) by striking subsection (d); and

10 (2) in subsection (f)—

11 (A) by striking “(including for obtaining inde-  
12 pendent analysis under subsection (d)(4))”;

13 (B) by inserting “(1)” after “(f)”; and

14 (C) by adding at the end the following:

15 “(2) The Secretary may make a determination that as-  
16 pects of an application under this title require independent  
17 analysis to be conducted by third party experts due to risk fac-  
18 tors associated with markets, technology, financial structures,  
19 or other risk factors identified by the Secretary. Any inde-  
20 pendent analysis conducted pursuant to this provision shall be  
21 performed by a party chosen by the Secretary.

22 “(3) Notwithstanding any other provision of this title, the  
23 Secretary may make a determination that an application under  
24 this title requires additional equity because of increased risk  
25 factors associated with markets, technology, financial struc-  
26 tures, or other risk factors identified by the Secretary.

27 “(4) The Secretary may charge and collect fees to cover  
28 the costs of independent analysis under paragraph (2). Not-  
29 withstanding section 3302 of title 31, United States Code, any  
30 fee collected under this paragraph shall—

31 “(A) be credit as an offsetting collection to the ac-  
32 count that finances the administration of the loan guar-  
33 antee program;

34 “(B) shall be available for expenditure only to pay the  
35 costs of activities and services for which the fee is imposed;  
36 and

37 “(C) shall remain available until expended.”.





35-23

**SEC. 3527. ANNUAL REPORT ON PROGRAM.**

The Secretary of Transportation shall report to Congress annually on the loan guarantee program under title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.). The reports shall include—

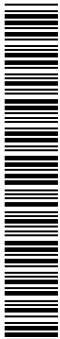
- (1) the size, in dollars, of the portfolio of loans guaranteed;
- (2) the size, in dollars, of projects in the portfolio facing financial difficulties;
- (3) the number and type of projects covered;
- (4) a profile of pending loan applications;
- (5) the amount of appropriations available for new guarantees;
- (6) a profile of each project approved since the last report; and
- (7) a profile of any defaults since the last report.

**SEC. 3528. REVIEW OF PROGRAM.**

(a) IN GENERAL.—The Secretary of Transportation shall conduct a comprehensive assessment of the human capital and other resource needs in connection with the title XI loan guarantee program under the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.). In connection with this assessment, the Secretary shall develop an organizational framework for the program offices that insures that a clear separation of duties is established among the loan application, project monitoring, and default management functions.

(b) PROGRAM ENHANCEMENTS.—

- (1) Section 1103(h)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1273(h)(1)) is amended—
  - (A) by striking “subsection” in subparagraph (A) and inserting “subsection, and update annually,”;
  - (B) by inserting “annually” before “determine” in subparagraph (B);
  - (C) by striking “and” after the semicolon in subparagraph (A);
  - (D) by striking “category.” in subparagraph (B) and inserting “category; and”; and



35–24

1 (E) by adding at the end the following:

2 “(C) ensure that each risk category is comprised  
3 of loans that are relatively homogeneous in cost and  
4 share characteristics predictive of defaults and other  
5 costs, given the facts known at the time of obligation  
6 or commitment, using a risk category system that is  
7 based on historical analysis of program data and statis-  
8 tical evidence concerning the likely costs of defaults or  
9 other costs that expected to be associated with the  
10 loans in the category.”.

11 (2) Section 1103(h)(2)(A) of that Act (46 U.S.C. App.  
12 1273(h)(2)(A)) is amended by inserting “and annually for  
13 projects subject to a guarantee,” after “obligation,”.

14 (3) Section 1103(h)(3) of that Act (46 U.S.C. App.  
15 1273(h)(3)) is amended by adding at the end the following:

16 “(K) A risk factor for concentration risk reflecting  
17 the risk presented by an unduly large percentage of  
18 loans outstanding by any 1 borrower or group of affili-  
19 ated borrowers.”.

20 (c) REPORT.—The Secretary shall report to the Com-  
21 mittee on Armed Services and the Committee on Commerce,  
22 Science, and Transportation of the Senate and the Committee  
23 on Armed Services of the House of Representatives on the re-  
24 sults of the development of an organizational framework under  
25 subsection (a) by January 2, 2004.

## 26 **Subtitle C—Maritime Security Fleet**

### 27 **SEC. 3531. ESTABLISHMENT OF MARITIME SECURITY** 28 **FLEET.**

29 (a) IN GENERAL.—Title 46, United States Code, is  
30 amended by inserting before subtitle VI the following new sub-  
31 title:

#### 32 **“Subtitle V—Merchant Marine**

“Chap.	Sec.
<b>“531. Maritime Security Fleet .....</b>	<b>53101</b>

#### **“CHAPTER 531—MARITIME SECURITY FLEET**

“Sec.

“53101. Definitions.

“53102. Establishment of Maritime Security Fleet.



35–25

- “53103. Award of operating agreements.  
“53104. Effectiveness of operating agreements.  
“53105. Obligations and rights under operating agreements.  
“53106. Payments.  
“53107. National security requirements.  
“53108. Regulatory relief.  
“53109. Special rule regarding age of participating fleet vessel.  
“53110. Regulations  
“53111. Authorization of appropriations.

1     **“§53101. Definitions**

2             “In this chapter:

3             “(1) BULK CARGO.—The term ‘bulk cargo’ means  
4 cargo that is loaded and carried in bulk without mark or  
5 count.

6             “(2) CONTRACTOR.—The term ‘contractor’ means an  
7 owner or operator of a vessel that enters into an operating  
8 agreement for the vessel with the Secretary under section  
9 53103.

10            “(3) FLEET.—The term ‘Fleet’ means the Maritime  
11 Security Fleet established under section 53102(a).

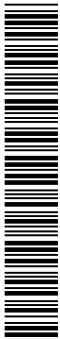
12            “(4) FOREIGN COMMERCE.—The term ‘foreign  
13 commerce’—

14               “(A) subject to subparagraph (B), means—

15                “(i) commerce or trade between the United  
16 States, its territories or possessions, or the District  
17 of Columbia, and a foreign country; and

18                “(ii) commerce or trade between foreign coun-  
19 tries; and

20               “(B) includes, in the case of liquid and dry bulk  
21 cargo carrying services, trading between foreign ports  
22 in accordance with normal commercial bulk shipping  
23 practices in such manner as will permit United States-  
24 documented vessels freely to compete with foreign-flag  
25 bulk carrying vessels in their operation or in competing  
26 for charters, subject to rules and regulations promul-  
27 gated by the Secretary of Transportation pursuant to  
28 this chapter or subtitle D of the Maritime Security Act  
29 of 2003.



## 35–26

1 “(5) LASH VESSEL.—The term ‘LASH vessel’ means  
2 a lighter aboard ship vessel.

3 “(6) PARTICIPATING FLEET VESSEL.—The term ‘par-  
4 ticipating fleet vessel’ means any vessel that—

5 “(A) on October 1, 2005—

6 “(i) meets the requirements of paragraph (1),  
7 (2), (3), or (4) of section 53102(c); and

8 “(ii) is less than 25 years of age, or less than  
9 30 years of age in the case of a LASH vessel; and

10 “(B) on December 31, 2004, is covered by an op-  
11 erating agreement under subtitle B of title VI of the  
12 Merchant Marine Act, 1936 (46 App. U.S.C. 1187 et  
13 seq.).

14 “(7) PERSON.—The term ‘person’ includes corpora-  
15 tions, partnerships, and associations existing under or au-  
16 thorized by the laws of the United States, or any State,  
17 Territory, District, or possession thereof, or of any foreign  
18 country.

19 “(8) PRODUCT TANK VESSEL.—The term ‘product  
20 tank vessel’ means a double hulled tank vessel capable of  
21 carrying simultaneously more than 2 separated grades of  
22 refined petroleum products.

23 “(9) SECRETARY.—The term ‘Secretary’ means the  
24 Secretary of Transportation.

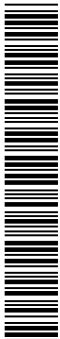
25 “(10) TANK VESSEL.—The term ‘tank vessel’ has the  
26 meaning that term has under section 2101 of this title.

27 “(11) UNITED STATES.—The term ‘United States’ in-  
28 cludes the District of Columbia, the Commonwealth of  
29 Puerto Rico, the Northern Mariana Islands, Guam, Amer-  
30 ican Samoa, the Virgin Islands.

31 “(12) UNITED STATES CITIZEN TRUST.—(A) Subject  
32 to subparagraph (C), the term ‘United States citizen trust’  
33 means a trust that is qualified under this paragraph.

34 “(B) A trust is qualified under this paragraph with re-  
35 spect to a vessel only if—

36 “(i) each of the trustees is a citizen of the United  
37 States; and



“(ii) the application for documentation of the vessel under chapter 121 of this title includes the affidavit of each trustee stating that the trustee is not aware of any reason involving a beneficiary of the trust that is not a citizen of the United States, or involving any other person that is not a citizen of the United States, as a result of which the beneficiary or other person would hold more than 25 percent of the aggregate power to influence or limit the exercise of the authority of the trustee with respect to matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States.

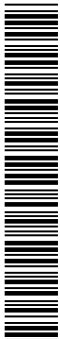
“(C) If any person that is not a citizen of the United States has authority to direct or participate in directing a trustee for a trust in matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States or in removing a trustee for a trust without cause, either directly or indirectly through the control of another person, the trust is not qualified under this paragraph unless the trust instrument provides that persons who are not citizens of the United States may not hold more than 25 percent of the aggregate authority to so direct or remove a trustee.

“(D) This paragraph shall not be considered to prohibit a person who is not a citizen of the United States from holding more than 25 percent of the beneficial interest in a trust.

“(13) UNITED STATES-DOCUMENTED VESSEL.—The term ‘United States-documented vessel’ means a vessel documented under chapter 121 of this title.

## “§53102. Establishment of Maritime Security Fleet

“(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of Defense, shall establish a fleet of active, commercially viable, militarily useful, privately owned vessels to meet national defense and other security requirements and maintain a United States presence in international commercial shipping. The Fleet shall consist of pri-



1 vately owned, United States-documented vessels for which there  
2 are in effect operating agreements under this chapter, and shall  
3 be known as the Maritime Security Fleet.

4 “(b) VESSEL ELIGIBILITY.—A vessel is eligible to be in-  
5 cluded in the Fleet if—

6 “(1) the vessel meets the requirements of paragraph  
7 (1), (2), (3), or (4) of subsection (c);

8 “(2) the vessel is operated (or in the case of a vessel  
9 to be constructed, will be operated) in providing transpor-  
10 tation in foreign commerce;

11 “(3) the vessel is self-propelled and is—

12 “(A) a roll-on/roll-off vessel with a carrying capac-  
13 ity of at least 80,000 square feet or 500 twenty-foot  
14 equivalent units and that is 15 years of age or less on  
15 the date the vessel is included in the Fleet;

16 “(B) a tank vessel that is constructed in the  
17 United States after the date of the enactment of this  
18 chapter;

19 “(C) a tank vessel that is 10 years of age or less  
20 on the date the vessel is included in the Fleet;

21 “(D) a LASH vessel that is 25 years of age or less  
22 on the date the vessel is included in the Fleet; or

23 “(E) any other type of vessel that is 15 years of  
24 age or less on the date the vessel is included in the  
25 Fleet;

26 “(4) the vessel is—

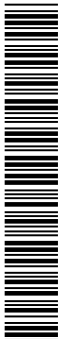
27 “(A) determined by the Secretary of Defense to be  
28 suitable for use by the United States for national de-  
29 fense or military purposes in time of war or national  
30 emergency; and

31 “(B) determined by the Secretary to be commer-  
32 cially viable; and

33 “(5) the vessel—

34 “(A) is a United States-documented vessel; or

35 “(B) is not a United States-documented vessel,  
36 but—



## 35–29

1 “(i) the owner of the vessel has demonstrated  
2 an intent to have the vessel documented under  
3 chapter 121 of this title if it is included in the  
4 Fleet; and

5 “(ii) at the time an operating agreement for  
6 the vessel is entered into under this chapter, the  
7 vessel is eligible for documentation under chapter  
8 121 of this title.

9 “(c) REQUIREMENTS REGARDING CITIZENSHIP OF OWN-  
10 ERS, CHARTERERS, AND OPERATORS.—

11 “(1) VESSEL OWNED AND OPERATED BY SECTION 2  
12 CITIZENS.—A vessel meets the requirements of this para-  
13 graph if, during the period of an operating agreement  
14 under this chapter that applies to the vessel, the vessel will  
15 be owned and operated by one or more persons that are  
16 citizens of the United States under section 2 of the Ship-  
17 ping Act, 1916 (46 App. U.S.C. 802).

18 “(2) VESSEL OWNED BY SECTION 2 CITIZEN OR  
19 UNITED STATES CITIZEN TRUST, AND CHARTERED TO DOC-  
20 UMENTATION CITIZEN.—A vessel meets the requirements of  
21 this paragraph if—

22 “(A) during the period of an operating agreement  
23 under this chapter that applies to the vessel, the vessel  
24 will be—

25 “(i) owned by a person that is a citizen of the  
26 United States under section 2 of the Shipping Act,  
27 1916 (46 App. U.S.C. 802) or that is a United  
28 States citizen trust; and

29 “(ii) demise chartered to a person—

30 “(I) that is eligible to document the vessel  
31 under chapter 121 of this title;

32 “(II) the chairman of the board of direc-  
33 tors, chief executive officer, and a majority of  
34 the members of the board of directors of which  
35 are citizens of the United States under section  
36 2 of the Shipping Act, 1916 (46 App. U.S.C.



35–30

802), and are appointed and subjected to removal only upon approval by the Secretary; and

“(III) that certifies to the Secretary that there are no treaties, statutes, regulations, or other laws that would prohibit the contractor for the vessel from performing its obligations under an operating agreement under this chapter;

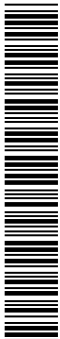
“(B) in the case of a vessel that will be demise chartered to a person that is owned or controlled by another person that is not a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802), the other person enters into an agreement with the Secretary not to influence the operation of the vessel in a manner that will adversely affect the interests of the United States; and

“(C) the Secretary and the Secretary of Defense notify the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services of the House of Representatives that they concur with the certification required under subparagraph (A)(ii)(III), and have reviewed and agree that there are no other legal, operational, or other impediments that would prohibit the contractor for the vessel from performing its obligations under an operating agreement under this chapter.

“(3) VESSEL OWNED AND OPERATED BY DEFENSE CONTRACTOR.—A vessel meets the requirements of this paragraph if—

“(A) during the period of an operating agreement under this chapter that applies to the vessel, the vessel will be owned and operated by a person that—

“(i) is eligible to document a vessel under chapter 121 of this title;





35–31

1 “(ii) operates or manages other United States-  
2 documented vessels for the Secretary of Defense, or  
3 charters other vessels to the Secretary of Defense;

4 “(iii) has entered into a special security agree-  
5 ment for purposes of this paragraph with the Sec-  
6 retary of Defense;

7 “(iv) makes the certification described in para-  
8 graph (2)(A)(ii)(III); and

9 “(v) in the case of a vessel described in para-  
10 graph (2)(B), enters into an agreement referred to  
11 in that paragraph; and

12 “(B) the Secretary and the Secretary of Defense  
13 notify the Committee on Armed Services and the Com-  
14 mittee on Commerce, Science, and Transportation of  
15 the Senate and the Committee on Armed Services of  
16 the House of Representatives that they concur with the  
17 certification required under subparagraph (A)(iv), and  
18 have reviewed and agree that there are no other legal,  
19 operational, or other impediments that would prohibit  
20 the contractor for the vessel from performing its obliga-  
21 tions under an operating agreement under this chapter.

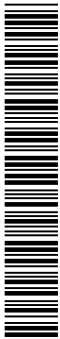
22 “(4) VESSEL OWNED BY DOCUMENTATION CITIZEN  
23 AND CHARTERED TO SECTION 2 CITIZEN.—A vessel meets  
24 the requirements of this paragraph if, during the period of  
25 an operating agreement under this chapter that applies to  
26 the vessel, the vessel will be—

27 “(A) owned by a person that is eligible to docu-  
28 ment a vessel under chapter 121 of this title; and

29 “(B) demise chartered to a person that is a citizen  
30 of the United States under section 2 of the Shipping  
31 Act, 1916 (46 App. U.S.C. 802).

32 “(d) REQUEST BY SECRETARY OF DEFENSE.—The Sec-  
33 retary of Defense shall request the Secretary of Homeland Se-  
34 curity to issue any waiver under the first section of Public Law  
35 81–891 (64 Stat. 1120; 46 App. U.S.C. note prec. 3) that is  
36 necessary for purposes of this chapter.

37 “(e) VESSEL STANDARDS.—



1 “(1) CERTIFICATE OF INSPECTION.—A vessel used to  
2 provide oceangoing transportation which the Secretary of  
3 the department in which the Coast Guard is operating de-  
4 termines meets the criteria of subsection (b) of this section  
5 but which, on the date of enactment of the Maritime Secu-  
6 rity Act of 2003, is not a documented vessel (as that term  
7 is defined in section 12101 of this title) shall be eligible for  
8 a certificate of inspection if the Secretary determines  
9 that—

10 “(A) the vessel is classed by and designed in ac-  
11 cordance with the rules of the American Bureau of  
12 Shipping, or another classification society accepted by  
13 the Secretary;

14 “(B) the vessel complies with applicable inter-  
15 national agreements and associated guidelines, as de-  
16 termined by the country in which the vessel was docu-  
17 mented immediately before becoming a documented ves-  
18 sel (as defined in that section); and

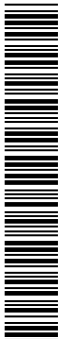
19 “(C) that country has not been identified by the  
20 Secretary as inadequately enforcing international vessel  
21 regulations as to that vessel.

22 “(2) CONTINUED ELIGIBILITY FOR CERTIFICATE.—  
23 Paragraph (1) does not apply to a vessel after any date on  
24 which the vessel fails to comply with the applicable inter-  
25 national agreements and associated guidelines referred to  
26 in paragraph (1)(B).

27 “(3) RELIANCE ON CLASSIFICATION SOCIETY.—

28 “(A) IN GENERAL.—The Secretary may rely on a  
29 certification from the American Bureau of Shipping or,  
30 subject to subparagraph (B), another classification so-  
31 ciety accepted by the Secretary to establish that a ves-  
32 sel is in compliance with the requirements of para-  
33 graphs (1) and (2).

34 “(B) FOREIGN CLASSIFICATION SOCIETY.—The  
35 Secretary may accept certification from a foreign clas-  
36 sification society under subparagraph (A) only—



35–33

1 “(i) to the extent that the government of the  
2 foreign country in which the society is  
3 headquartered provides access on a reciprocal basis  
4 to the American Bureau of Shipping; and

5 “(ii) if the foreign classification society has of-  
6 fices and maintains records in the United States.

7 “(f) WAIVER OF AGE RESTRICTION.—The Secretary of  
8 Defense, in conjunction with the Secretary of Transportation,  
9 may waive the application of an age restriction under sub-  
10 section (b)(3) if the Secretaries jointly determine that the  
11 waiver—

12 “(1) is in the national interest;

13 “(2) is appropriate to allow the maintenance of the  
14 economic viability of the vessel and any associated oper-  
15 ating network; and

16 “(3) is necessary due to the lack of availability of  
17 other vessels and operators that comply with the require-  
18 ments of this chapter.

19 **“§53103. Award of operating agreements**

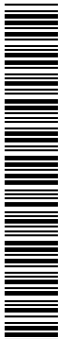
20 “(a) IN GENERAL.—The Secretary shall require, as a con-  
21 dition of including any vessel in the Fleet, that the person that  
22 is the owner or operator of the vessel for purposes of section  
23 53102(c) enter into an operating agreement with the Secretary  
24 under this section.

25 “(b) PROCEDURE FOR APPLICATIONS.—

26 “(1) ACCEPTANCE OF APPLICATIONS.—Beginning no  
27 later than 30 days after the effective date of this chapter,  
28 the Secretary shall accept applications for enrollment of  
29 vessels in the Fleet.

30 “(2) ACTION ON APPLICATIONS.—Within 90 days after  
31 receipt of an application for enrollment of a vessel in the  
32 Fleet, the Secretary shall approve the application in con-  
33 junction with the Secretary of Defense, and shall enter into  
34 an operating agreement with the applicant, or provide in  
35 writing the reason for denial of that application.

36 “(3) PARTICIPATING FLEET VESSELS.—



1 “(A) IN GENERAL.—The Secretary shall accept an  
2 application for an operating agreement for a partici-  
3 pating fleet vessel under the priority under subsection  
4 (c)(1)(B) only from a person that has authority to  
5 enter into an operating agreement for the vessel with  
6 respect to the full term of the operating agreement.

7 “(B) VESSEL UNDER DEMISE CHARTER.—For  
8 purposes of subparagraph (A), in the case of a vessel  
9 that is subject to a demise charter that terminates by  
10 its terms on September 30, 2005 (without giving effect  
11 to any extension provided therein for completion of a  
12 voyage or to effect the actual redelivery of the vessel),  
13 or that is terminable at will by the owner of the vessel  
14 after such date, only the owner of the vessel shall be  
15 treated as having the authority referred to in para-  
16 graph (1).

17 “(C) VESSEL OWNED BY UNITED STATES CITIZEN  
18 TRUST.—For purposes of subparagraph (B), in the  
19 case of a vessel owned by a United States citizen trust,  
20 the term ‘owner of the vessel’ includes a beneficial  
21 owner of the vessel with respect to such trust.

22 “(c) PRIORITY FOR AWARDING AGREEMENTS.—

23 “(1) IN GENERAL.—Subject to the availability of ap-  
24 propriations, the Secretary shall enter into operating agree-  
25 ments according to the following priority:

26 “(A) NEW TANK VESSELS.—First, for any tank  
27 vessel that—

28 “(i) is constructed in the United States after  
29 the effective date of this chapter;

30 “(ii) is eligible to be included in the Fleet  
31 under section 53102(b); and

32 “(iii) during the period of an operating agree-  
33 ment under this chapter that applies to the vessel,  
34 will be owned and operated by one or more persons  
35 that are citizens of the United States under section  
36 2 of the Shipping Act, 1916 (46 App. U.S.C. 802),



35–35

1 except that the Secretary shall not enter into operating  
2 agreements under this subparagraph for more than 5  
3 such vessels.

4 “(B) PARTICIPATING FLEET VESSELS.—Second, to  
5 the extent amounts are available after applying sub-  
6 paragraphs (A), for any participating fleet vessel, ex-  
7 cept that the Secretary shall not enter into operating  
8 agreements under this subparagraph for more than 47  
9 vessels.

10 “(C) CERTAIN VESSELS OPERATED BY SECTION 2  
11 CITIZENS.—Third, to the extent amounts are available  
12 after applying subparagraphs (A) and (B), for any  
13 other vessel that is eligible to be included in the Fleet  
14 under section 53102(b), and that, during the period of  
15 an operating agreement under this chapter that applies  
16 to the vessel, will be—

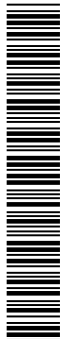
17 “(i) owned and operated by one or more per-  
18 sons that are citizens of the United States under  
19 section 2 of the Shipping Act, 1916 (46 App.  
20 U.S.C. 802); or

21 “(ii) owned by a person that is eligible to doc-  
22 ument the vessel under chapter 121 of this title,  
23 and operated by a person that is a citizen of the  
24 United States under section 2 of the Shipping Act,  
25 1916 (46 App. U.S.C. 802).

26 “(D) OTHER ELIGIBLE VESSELS.—Fourth, to the  
27 extent amounts are available after applying subpara-  
28 graphs (A), (B), and (C), for any other vessel that is  
29 eligible to be included in the Fleet under section  
30 53102(b).

31 “(2) REDUCTION IN NUMBER OF SLOTS FOR PARTICI-  
32 PATING FLEET VESSELS.—The number in paragraph  
33 (1)(B) shall be reduced by 1—

34 “(A) for each participating fleet vessel for which  
35 an application for enrollment in the Fleet is not re-  
36 ceived by the Secretary within the 90-day period begin-  
37 ning on the effective date of this chapter; and



## 35–36

“(B) for each participating fleet vessel for which an application for enrollment in the Fleet received by the Secretary is not approved by the Secretary and the Secretary of Defense within the 90-day period beginning on the date of such receipt.

“(3) DISCRETION WITHIN PRIORITY.—The Secretary—

“(A) subject to subparagraph (B), may award operating agreements within each priority under paragraph (1) as the Secretary considers appropriate; and

“(B) shall award operating agreement within a priority—

“(i) in accordance with operational requirements specified by the Secretary of Defense;

“(ii) in the case of operating agreements awarded under subparagraph (C) or (D) of paragraph (1), according to applicants’ records of owning and operating vessels; and

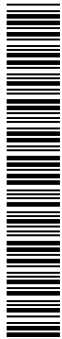
“(iii) subject to the approval of the Secretary of Defense.

“(4) TREATMENT OF TANK VESSEL TO BE REPLACED.—(A) For purposes of the application of paragraph (1)(A) with respect to the award of an operating agreement, the Secretary may treat an existing tank vessel that is eligible to be included in the Fleet under section 53102(b) as a vessel that is constructed in the United States after the effective date of this chapter, if—

“(i) a binding contract for construction in the United States of a replacement vessel to be operated under the operating agreement is executed by not later than 9 months after the first date amounts are available to carry out this chapter; and

“(ii) the replacement vessel is eligible to be included in the Fleet under section 53102(b).

“(B) No payment under this chapter may be made for an existing tank vessel for which an operating agreement is awarded under this paragraph after the earlier of—



1 “(i) 4 years after the first date amounts are avail-  
2 able to carry out this chapter; or

3 “(ii) the date of delivery of the replacement tank  
4 vessel.

5 “(d) LIMITATION.—The Secretary may not award oper-  
6 ating agreements under this chapter that require payments  
7 under section 53106 for a fiscal year for more than 60 vessels.

8 **“§53104. Effectiveness of operating agreements**

9 “(a) EFFECTIVENESS, GENERALLY.—The Secretary may  
10 enter into an operating agreement under this chapter for fiscal  
11 year 2006. Except as provided in subsection (b), the agreement  
12 shall be effective only for 1 fiscal year, but shall be renewable,  
13 subject to the availability of appropriations, for each subse-  
14 quent fiscal year through the end of fiscal year 2015.

15 “(b) VESSELS UNDER CHARTER TO U.S.—Unless an ear-  
16 lier date is requested by the applicant, the effective date for an  
17 operating agreement with respect to a vessel that is, on the  
18 date of entry into an operating agreement, on charter to the  
19 United States Government, other than a charter pursuant to an  
20 Emergency Preparedness Agreement under section 53107, shall  
21 be the expiration or termination date of the Government char-  
22 ter covering the vessel, or any earlier date the vessel is with-  
23 drawn from that charter.

24 “(c) TERMINATION.—

25 “(1) TERMINATION BY SECRETARY.—If the contractor  
26 with respect to an operating agreement materially fails to  
27 comply with the terms of the agreement—

28 “(A) the Secretary shall notify the contractor and  
29 provide a reasonable opportunity to comply with the op-  
30 erating agreement;

31 “(B) the Secretary shall terminate the operating  
32 agreement if the contractor fails to achieve such com-  
33 pliance; and

34 “(C) upon such termination, any funds obligated  
35 by the agreement shall be available to the Secretary to  
36 carry out this chapter.



1           “(2) EARLY TERMINATION BY CONTRACTOR, GEN-  
2           ERALLY.—An operating agreement under this chapter shall  
3           terminate on a date specified by the contractor if the con-  
4           tractor notifies the Secretary, by not later than 60 days be-  
5           fore the effective date of the termination, that the con-  
6           tractor intends to terminate the agreement.

7           “(3) EARLY TERMINATION BY CONTRACTOR, WITH  
8           AVAILABLE REPLACEMENT.—An operating agreement  
9           under this chapter shall terminate upon the expiration of  
10          the 3-year period beginning on the date a vessel begins op-  
11          erating under the agreement, if—

12           “(A) the contractor notifies the Secretary, by not  
13           later than 2 years after the date the vessel begins oper-  
14           ating under the agreement, that the contractor intends  
15           to terminate the agreement under this paragraph; and

16           “(B) the Secretary, in conjunction with the Sec-  
17           retary of Defense, determines that—

18           “(i) an application for an operating agreement  
19           under this chapter has been received for a replace-  
20           ment vessel that is acceptable to the Secretaries;  
21           and

22           “(ii) during the period of an operating agree-  
23           ment under this chapter that applies to the replace-  
24           ment vessel, the replacement vessel will be—

25           “(I) owned and operated by one or more  
26           persons that are citizens of the United States  
27           under section 2 of the Shipping Act, 1916 (46  
28           App. U.S.C. 802); or

29           “(II) owned by a person that is eligible to  
30           document the vessel under chapter 121 of this  
31           title, and operated by a person that is a citizen  
32           of the United States under section 2 of the  
33           Shipping Act, 1916 (46 App. U.S.C. 802).

34           “(d) NONRENEWAL FOR LACK OF FUNDS.—If, by the first  
35           day of a fiscal year, sufficient funds have not been appropriated  
36           under the authority provided by this chapter for that fiscal  
37           year, then the Secretary shall notify the Committee on Armed





1 Services and the Committee on Commerce, Science, and Trans-  
2 portation of the Senate and the Committee on Armed Services  
3 of the House of Representatives that operating agreements au-  
4 thorized under this chapter for which sufficient funds are not  
5 available will not be renewed for that fiscal year if sufficient  
6 funds are not appropriated by the 60th day of that fiscal year.

7 “(e) RELEASE OF VESSELS FROM OBLIGATIONS.—If an  
8 operating agreement under this chapter is terminated under  
9 subsection (c)(3), or if funds are not appropriated for payments  
10 under an operating agreement under this chapter for any fiscal  
11 year by the 60th day of that fiscal year, then—

12 “(1) each vessel covered by the operating agreement is  
13 thereby released from any further obligation under the op-  
14 erating agreement;

15 “(2) the owner or operator of the vessel may transfer  
16 and register such vessel under a foreign registry that is ac-  
17 ceptable to the Secretary of Transportation and the Sec-  
18 retary of Defense, notwithstanding section 9 of the Ship-  
19 ping Act, 1916 (46 App. U.S.C. 808); and

20 “(3) if section 902 of the Merchant Marine Act, 1936  
21 (46 App. U.S.C. 1242) is applicable to such vessel after  
22 registration of the vessel under such a registry, then the  
23 vessel is available to be requisitioned by the Secretary of  
24 Transportation pursuant to section 902 of such Act.

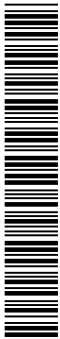
25 **“§53105. Obligations and rights under operating**  
26 **agreements**

27 “(a) OPERATION OF VESSEL.—An operating agreement  
28 under this chapter shall require that, during the period a vessel  
29 is operating under the agreement—

30 “(1) the vessel—

31 “(A) shall be operated exclusively in the foreign  
32 commerce or in mixed foreign commerce and domestic  
33 trade allowed under a registry endorsement issued  
34 under section 12105 of this title; and

35 “(B) shall not otherwise be operated in the coast-  
36 wise trade; and



1 “(2) the vessel shall be documented under chapter 121  
2 of this title.

3 “(b) ANNUAL PAYMENTS BY SECRETARY.—

4 “(1) IN GENERAL.—An operating agreement under  
5 this chapter shall require, subject to the availability of ap-  
6 propriations, that the Secretary make a payment each fis-  
7 cal year to the contractor in accordance with section  
8 53106.

9 “(2) OPERATING AGREEMENT IS OBLIGATION OF  
10 UNITED STATES GOVERNMENT.—An operating agreement  
11 under this chapter constitutes a contractual obligation of  
12 the United States Government to pay the amounts provided  
13 for in the agreement to the extent of actual appropriations.

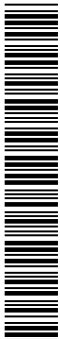
14 “(c) DOCUMENTATION REQUIREMENT.—Each vessel cov-  
15 ered by an operating agreement (including an agreement termi-  
16 nated under section 53104(c)(2)) shall remain documented  
17 under chapter 121 of this title, until the date the operating  
18 agreement would terminate according to its terms.

19 “(d) NATIONAL SECURITY REQUIREMENTS.—

20 “(1) IN GENERAL.—A contractor with respect to an  
21 operating agreement (including an agreement terminated  
22 under section 53104(c)(2)) shall continue to be bound by  
23 the provisions of section 53107 until the date the operating  
24 agreement would terminate according to its terms.

25 “(2) EMERGENCY PREPAREDNESS AGREEMENT.—All  
26 terms and conditions of an Emergency Preparedness  
27 Agreement entered into under section 53107 shall remain  
28 in effect until the date the operating agreement would ter-  
29minate according to its terms, except that the terms of  
30 such Emergency Preparedness Agreement may be modified  
31 by the mutual consent of the contractor, the Secretary of  
32 Transportation, and the Secretary of Defense.

33 “(e) TRANSFER OF OPERATING AGREEMENTS.—A con-  
34 tractor under an operating agreement may transfer the agree-  
35 ment (including all rights and obligations under the agreement)  
36 to any person that is eligible to enter into that operating agree-



1 ment under this chapter, if the transfer is approved by the Sec-  
2 retary and the Secretary of Defense.

3 “(f) REPLACEMENT VESSEL.—A contractor may replace a  
4 vessel under an operating agreement with another vessel that  
5 is eligible to be included in the Fleet under section 53102(b),  
6 if the Secretary, in conjunction with the Secretary of Defense,  
7 approve replacement of the vessel.

8 **“§53106. Payments**

9 “(a) ANNUAL PAYMENT.—

10 “(1) IN GENERAL.—The Secretary, subject to the  
11 availability of appropriations and the other provisions of  
12 this section, shall pay to the contractor for an operating  
13 agreement, for each vessel that is covered by the operating  
14 agreement, an amount equal to—

15 “(A) \$2,600,000 for each of fiscal years 2006,  
16 2007, and 2008;

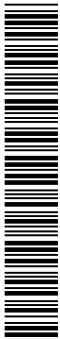
17 “(B) \$2,900,000, for each of fiscal years 2009,  
18 2010, and 2011; and

19 “(C) \$3,100,000 for each fiscal years 2012, 2013,  
20 2014, and 2015.

21 “(2) TIMING.—The amount shall be paid in equal  
22 monthly installments at the end of each month. The  
23 amount shall not be reduced except as provided by this sec-  
24 tion.

25 “(b) CERTIFICATION REQUIRED FOR PAYMENT.—As a  
26 condition of receiving payment under this section for a fiscal  
27 year for a vessel, the contractor for the vessel shall certify, in  
28 accordance with regulations issued by the Secretary, that the  
29 vessel has been and will be operated in accordance with section  
30 53105(a)(1) for at least 320 days in the fiscal year. Days dur-  
31 ing which the vessel is drydocked, surveyed, inspected, or re-  
32 paired shall be considered days of operation for purposes of this  
33 subsection.

34 “(c) GENERAL LIMITATIONS.—The Secretary of Transpor-  
35 tation shall not make any payment under this chapter for a  
36 vessel with respect to any days for which the vessel is—



1 “(1) under a charter to the United States Govern-  
2 ment, other than a charter pursuant to an Emergency Pre-  
3 paredness Agreement under section 53107;

4 “(2) not operated or maintained in accordance with an  
5 operating agreement under this chapter; or

6 “(3) more than—

7 “(A) 25 years of age, except as provided in sub-  
8 paragraph (B) or (C);

9 “(B) 20 years of age, in the case of a tank vessel;

10 or

11 “(C) 30 years of age, in the case of a LASH ves-  
12 sel.

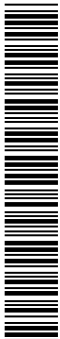
13 “(d) REDUCTIONS IN PAYMENTS.—With respect to pay-  
14 ments under this chapter for a vessel covered by an operating  
15 agreement, the Secretary—

16 “(1) except as provided in paragraph (2), shall not re-  
17 duce any payment for the operation of the vessel to carry  
18 military or other preference cargoes under section 2631 of  
19 title 10, United States Code, the Act of March 26, 1934  
20 (46 App. U.S.C. 1241–1), section 901(a), 901(b), or 901b  
21 of the Merchant Marine Act, 1936 (46 App. U.S.C.  
22 1241(a), 1241(b), or 1241f), or any other cargo preference  
23 law of the United States;

24 “(2) shall not make any payment for any day that the  
25 vessel is engaged in transporting more than 7,500 tons of  
26 civilian bulk preference cargoes pursuant to section 901(a),  
27 901(b), or 901b of the Merchant Marine Act, 1936 (46  
28 App. U.S.C. 1241(a), 1241(b), or 1241f), that is bulk  
29 cargo; and

30 “(3) shall make a pro rata reduction in payment for  
31 each day less than 320 in a fiscal year that the vessel is  
32 not operated in accordance with section 53105(a)(1), with  
33 days during which the vessel is drydocked or undergoing  
34 survey, inspection, or repair considered to be days on which  
35 the vessel is operated.

36 “(e) LIMITATION REGARDING NONCONTIGUOUS DOMESTIC  
37 TRADE.—



1 “(1) IN GENERAL.—No contractor shall receive pay-  
2 ments pursuant to this chapter during a period in which  
3 it participates in noncontiguous domestic trade.

4 “(2) LIMITATION ON APPLICATION.—Paragraph (1)  
5 shall not apply to any person that is a citizen of the United  
6 States within the meaning of section 2(c) of the Shipping  
7 Act, 1916 (46 App. U.S.C. 802(c)).

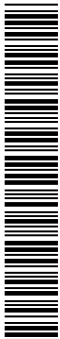
8 “(3) PARTICIPATES IN A NONCONTIGUOUS DOMESTIC  
9 TRADE DEFINED.—In this subsection the term ‘participates  
10 in a noncontiguous domestic trade’ means directly or indi-  
11 rectly owns, charters, or operates a vessel engaged in trans-  
12 portation of cargo between a point in the contiguous 48  
13 States and a point in Alaska, Hawaii, or Puerto Rico, other  
14 than a point in Alaska north of the Arctic Circle.

15 **“§53107. National security requirements**

16 “(a) EMERGENCY PREPAREDNESS AGREEMENT RE-  
17 QUIRED.—The Secretary shall establish an Emergency Pre-  
18 paredness Program under this section that is approved by the  
19 Secretary of Defense. Under the program, the Secretary, in  
20 conjunction with the Secretary of Defense, shall include in each  
21 operating agreement under this chapter a requirement that the  
22 contractor enter into an Emergency Preparedness Agreement  
23 under this section with the Secretary. The Secretary shall nego-  
24 tiate and enter into an Emergency Preparedness Agreement  
25 with each contractor as promptly as practicable after the con-  
26 tractor has entered into an operating agreement under this  
27 chapter.

28 “(b) TERMS OF AGREEMENT.—

29 “(1) IN GENERAL.—An Emergency Preparedness  
30 Agreement under this section shall require that upon a re-  
31 quest by the Secretary of Defense during time of war or  
32 national emergency, or whenever determined by the Sec-  
33 retary of Defense to be necessary for national security or  
34 contingency operation (as that term is defined in section  
35 101 of title 10, United States Code), a contractor for a ves-  
36 sel covered by an operating agreement under this chapter



1       shall make available commercial transportation resources  
2       (including services).

3           “(2) BASIC TERMS.—(A) The basic terms of the  
4       Emergency Preparedness Agreement shall be established  
5       (subject to subparagraph (B)) by the Secretary and the  
6       Secretary of Defense.

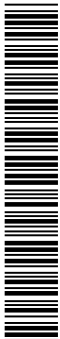
7           “(B) In any Emergency Preparedness Agreement, the  
8       Secretary and a contractor may agree to additional or  
9       modifying terms appropriate to the contractor’s cir-  
10      cumstances if those terms have been approved by the Sec-  
11      retary of Defense.

12          “(c) PARTICIPATION AFTER EXPIRATION OF OPERATING  
13      AGREEMENT.—Except as provided by section 53105(d), the  
14      Secretary may not require, through an Emergency Prepared-  
15      ness Agreement or operating agreement, that a contractor con-  
16      tinue to participate in an Emergency Preparedness Agreement  
17      after the operating agreement with the contractor has expired  
18      according to its terms or is otherwise no longer in effect. After  
19      expiration of an Emergency Preparedness Agreement, a con-  
20      tractor may volunteer to continue to participate in such an  
21      agreement.

22          “(d) RESOURCES MADE AVAILABLE.—The commercial  
23      transportation resources to be made available under an Emer-  
24      gency Preparedness Agreement shall include vessels or capacity  
25      in vessels, intermodal systems and equipment, terminal facili-  
26      ties, intermodal and management services, and other related  
27      services, or any agreed portion of such nonvessel resources for  
28      activation as the Secretary of Defense may determine to be  
29      necessary, seeking to minimize disruption of the contractor’s  
30      service to commercial shippers.

31          “(e) COMPENSATION.—

32           “(1) IN GENERAL.—The Secretary shall include in  
33      each Emergency Preparedness Agreement provisions ap-  
34      proved by the Secretary of Defense under which the Sec-  
35      retary of Defense shall pay fair and reasonable compensa-  
36      tion for all commercial transportation resources provided  
37      pursuant to this section.



35–45

1           “(2) SPECIFIC REQUIREMENTS.—Compensation under  
2 this subsection—

3           “(A) shall not be less than the contractor’s com-  
4 mercial market charges for like transportation re-  
5 sources;

6           “(B) shall be fair and reasonable considering all  
7 circumstances;

8           “(C) shall be provided from the time that a vessel  
9 or resource is required by the Secretary of Defense  
10 until the time that it is redelivered to the contractor  
11 and is available to reenter commercial service; and

12           “(D) shall be in addition to and shall not in any  
13 way reflect amounts payable under section 53106.

14           “(f) TEMPORARY REPLACEMENT VESSELS.—Notwith-  
15 standing section 2631 of title 10, United States Code, the Act  
16 of March 26, 1934 (46 App. U.S.C. 1241–1), section 901(a),  
17 901(b), or 901b of the Merchant Marine Act, 1936 (46 App.  
18 U.S.C. 1241(a), 1241(b), or 1241f), or any other cargo pref-  
19 erence law of the United States—

20           “(1) a contractor may operate or employ in foreign  
21 commerce a foreign-flag vessel or foreign-flag vessel capac-  
22 ity as a temporary replacement for a United States-docu-  
23 mented vessel or United States-documented vessel capacity  
24 that is activated by the Secretary of Defense under an  
25 Emergency Preparedness Agreement or under a primary  
26 Department of Defense-approved sealift readiness program;  
27 and

28           “(2) such replacement vessel or vessel capacity shall be  
29 eligible during the replacement period to transport pref-  
30 erence cargoes subject to section 2631 of title 10, United  
31 States Code, the Act of March 26, 1934 (46 App. U.S.C.  
32 1241–1), and sections 901(a), 901(b), and 901b of the  
33 Merchant Marine Act, 1936 (46 App. U.S.C. 1241(a),  
34 1241(b), and 1241b) to the same extent as the eligibility  
35 of the vessel or vessel capacity replaced.

36           “(g) REDELIVERY AND LIABILITY OF UNITED STATES  
37 FOR DAMAGES.—



1 “(1) IN GENERAL.—All commercial transportation re-  
2 sources activated under an Emergency Preparedness Agree-  
3 ment shall, upon termination of the period of activation, be  
4 redelivered to the contractor in the same good order and  
5 condition as when received, less ordinary wear and tear, or  
6 the Secretary of Defense shall fully compensate the con-  
7 tractor for any necessary repair or replacement.

8 “(2) LIMITATION ON LIABILITY OF U.S.—Except as  
9 may be expressly agreed to in an Emergency Preparedness  
10 Agreement, or as otherwise provided by law, the Govern-  
11 ment shall not be liable for disruption of a contractor’s  
12 commercial business or other consequential damages to a  
13 contractor arising from activation of commercial transpor-  
14 tation resources under an Emergency Preparedness Agree-  
15 ment.

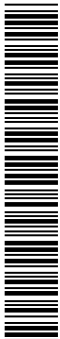
16 **“§53108. Regulatory relief**

17 “(a) OPERATION IN FOREIGN COMMERCE.—A contractor  
18 for a vessel included in an operating agreement under this  
19 chapter may operate the vessel in the foreign commerce of the  
20 United States without restriction.

21 “(b) OTHER RESTRICTIONS.—The restrictions of section  
22 901(b)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C.  
23 1241(b)(1)) concerning the building, rebuilding, or documenta-  
24 tion of a vessel in a foreign country shall not apply to a vessel  
25 for any day the operator of that vessel is receiving payments  
26 for operation of that vessel under an operating agreement  
27 under this chapter.

28 “(c) TELECOMMUNICATIONS EQUIPMENT.—The tele-  
29 communications and other electronic equipment on an existing  
30 vessel that is redocumented under the laws of the United  
31 States for operation under an operating agreement under this  
32 chapter shall be deemed to satisfy all Federal Communications  
33 Commission equipment certification requirements, if—

34 “(1) such equipment complies with all applicable inter-  
35 national agreements and associated guidelines as deter-  
36 mined by the country in which the vessel was documented





1 immediately before becoming documented under the laws of  
2 the United States;

3 “(2) that country has not been identified by the Sec-  
4 retary as inadequately enforcing international regulations  
5 as to that vessel; and

6 “(3) at the end of its useful life, such equipment will  
7 be replaced with equipment that meets Federal Commu-  
8 nications Commission equipment certification standards.

9 **“§53109. Special rule regarding age of partici-**  
10 **pating fleet vessel**

11 “Any age restriction under section 53102(b)(3) or  
12 53106(c)(3) shall not apply to a participating fleet vessel dur-  
13 ing the 30-month period beginning on the date the vessel be-  
14 gins operating under an operating agreement under this title,  
15 if the Secretary determines that the contractor for the vessel  
16 has entered into an arrangement to obtain and operate under  
17 the operating agreement for the participating fleet vessel a re-  
18 placement vessel that, upon commencement of such operation,  
19 will be eligible to be included in the Fleet under section  
20 53102(b).

21 **“§53110. Regulations**

22 “The Secretary and the Secretary of Defense may each  
23 prescribe rules as necessary to carry out their respective re-  
24 sponsibilities under this chapter.

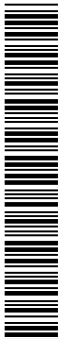
25 **“§53111. Authorization of appropriations**

26 “There are authorized to be appropriated for payments  
27 under section 53106, to remain available until expended—

28 “(1) \$156,000,000 for each of fiscal years 2006, 2007,  
29 and 2008;

30 “(2) \$174,000,000 for each of fiscal years 2009, 2010,  
31 and 2011; and

32 “(3) \$186,000,000 for each fiscal year thereafter  
33 through fiscal year 2015.”.



1 (b) CONFORMING AMENDMENT.—The table of subtitles at  
2 the beginning of title 46, United States Code, is amended by  
3 inserting before the item relating to chapter VI the following:

“V. MERCHANT MARINE ..... 53101”.

4 **SEC. 3532. RELATED AMENDMENTS TO EXISTING LAW.**

5 (a) AMENDMENT TO SHIPPING ACT, 1916.—Section 9 of  
6 the Shipping Act, 1916 (46 App. U.S.C. 808) is amended—

7 (1) by redesignating subsection (e), as added by sec-  
8 tion 1136(b) of Public Law 104–324 (110 Stat. 3987), as  
9 subsection (f); and

10 (2) by amending subsection (e), as added by section 6  
11 of Public Law 104–324 (110 Stat. 3132), to read as fol-  
12 lows:

13 “(e) Notwithstanding subsection (c)(2), the Merchant Ma-  
14 rine Act, 1936, or any contract entered into with the Secretary  
15 of Transportation under that Act, a vessel may be placed under  
16 a foreign registry, without approval of the Secretary, if—

17 “(1)(A) the Secretary, in conjunction with the Sec-  
18 retary of Defense, determines that at least one replacement  
19 vessel of equal or greater military capability and of a ca-  
20 pacity that is equivalent or greater, as measured by dead-  
21 weight tons, gross tons, or container equivalent units, as  
22 appropriate, is documented under chapter 121 of title 46,  
23 United States Code, by the owner of the vessel placed  
24 under the foreign registry; and

25 “(B) the replacement vessel is not more than 10 years  
26 of age on the date of that documentation; or

27 “(2) an operating agreement covering the vessel under  
28 chapter 531 of title 46, United States Code, has expired.”.

29 (b) MERCHANT MARINE ACT, 1936.—Section 512 of the  
30 Merchant Marine Act, 1936 (46 U.S.C. 1162) is amended—

31 (1) by striking “Notwithstanding” and inserting “(a)  
32 Except as provided in subsection (b), notwithstanding”;  
33 and

34 (2) by adding at the end the following:



1 “(b)(1) Except as provided in paragraph (2), the restric-  
2 tions and requirements of section 506 shall terminate upon the  
3 expiration of the 20-year period beginning on the date of the  
4 original delivery of the vessel from the shipyard for operation  
5 of a vessel in any domestic trade in which it has operated at  
6 any time since 1996.

7 “(2) Paragraph (1) shall not affect any requirement to  
8 make payments under section 506.”.

9 **SEC. 3533. INTERIM RULES.**

10 The Secretary of Transportation and the Secretary of De-  
11 fense may each prescribe interim rules necessary to carry out  
12 their respective responsibilities under this subtitle and the  
13 amendments made by this subtitle. For this purpose, the Secre-  
14 taries are excepted from compliance with the notice and com-  
15 ment requirements of section 553 of title 5, United States  
16 Code. All interim rules prescribed under the authority of this  
17 section that are not earlier superseded by final rules shall ex-  
18 pire no later than 270 days after the effective date of this sub-  
19 title.

20 **SEC. 3534. REPEALS AND CONFORMING AMENDMENTS.**

21 (a) REPEALS.—The following provisions are repealed:

22 (1) Subtitle B of title VI of the Merchant Marine Act,  
23 1936 (46 App. U.S.C. 1187 et seq.).

24 (2) Section 804 of the Merchant Marine Act, 1936 (46  
25 App. U.S.C. 1222).

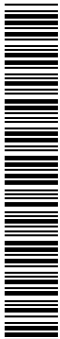
26 (b) CONFORMING AMENDMENTS.—

27 (1) Section 12102(d)(4) of title 46, United States  
28 Code, is amended by inserting “or chapter 531 of title 46,  
29 United States Code” after “Merchant Marine Act, 1936”.

30 (2) Section 1137 of Public Law 104–324 (46 App.  
31 U.S.C. 1187 note) is amended by striking “section 651(b)  
32 of the Merchant Marine Act, 1936” and inserting “section  
33 53102(b) of title 46, United States Code”.

34 **SEC. 3535. GAO STUDY OF ADJUSTMENT OF OPERATING**  
35 **AGREEMENT PAYMENT CRITERIA.**

36 (a) IN GENERAL.—The Comptroller General of the United  
37 States shall conduct a study of the potential impact of amend-



1 ing section 53106 of title 46, United States Code, as amended  
2 by this Act—

3 (1) to increase or decrease the 7,500 ton limitation;

4 (2) to apply the limitation to bagged cargo as well as  
5 bulk cargo; and

6 (3) to so modify the tonnage limitation and apply it  
7 to bagged cargo as well as bulk cargo.

8 (b) MATTERS TO BE ADDRESSED.—

9 (1) SPECIFIC IMPACTS.—As part of the study required  
10 by subsection (a), the Comptroller General shall address, in  
11 particular, the impact of such amendments on—

12 (A) the Maritime Security Fleet established under  
13 chapter 531 of title 46, United States Code, as amend-  
14 ed by this Act;

15 (B) the civilian bulk cargo preference program  
16 under section 901(a), 901(b), or 901b of such Act (46  
17 U.S.C. App. 1241(a), 1241(b), and 1241f); and

18 (C) operations of vessels under sections 901a  
19 through 901k of such Act (46 U.S.C. App. 1241e  
20 through 1241o, the Food for Peace Act of 1966 (7  
21 U.S.C. 1707a(b)(8)), or any other statute in pari mate-  
22 ria.

23 (2) CERTAIN ASPECTS.—In carrying out paragraph  
24 (1), the Comptroller General shall consider, among other  
25 matters—

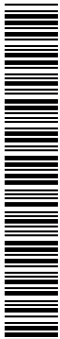
26 (A) increased or decreased costs to the overall  
27 cargo preference program, including transportation  
28 costs (for both land and water transportation);

29 (B) effects on ports;

30 (C) the number of shipments that would be af-  
31 fected;

32 (D) increased or decreased administrative and  
33 compliance burdens for carriers and Federal agencies;  
34 and

35 (E) increases or decreases in the number of  
36 United States-flag operators participating in the cargo  
37 preference program.



1 (3) BALANCING BENEFITS.—In the study, the Comp-  
2 troller General shall also address whether and how such  
3 amendments could result in achieving an appropriate bal-  
4 ance of benefits between participants in the Maritime Secu-  
5 rity Fleet program and participants in the cargo preference  
6 program.

7 (c) REPORT.—The Comptroller General shall transmit a  
8 report of the study, including findings, conclusions, and rec-  
9 ommendations (including legislative recommendations, if any),  
10 to the Committee on Armed Services of the House of Rep-  
11 resentatives and the Committee on Armed Services and the  
12 Committee on Commerce, Science, and Transportation of the  
13 Senate within 9 months after the date of enactment of this Act.

14 (d) AUTHORITY.—In order to conduct the study required  
15 by subsection (a), the Comptroller General, or any of the  
16 Comptroller General's duly authorized representatives, shall  
17 have access to any books, accounts, documents, papers, and  
18 records that relate to the information required to complete the  
19 study of owners or operators of vessels—

20 (1) under operating agreements under subtitle B of  
21 title VI of the Merchant Marine Act, 1936 (46 App. U.S.C.  
22 651 et seq.) or chapter 531 of title 46, United States Code,  
23 as amended by this Act; and

24 (2) that accept bulk cargo subject to the cargo pref-  
25 erence laws of the United States.

26 **SEC. 3536. DEFINITIONS.**

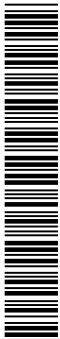
27 In this subtitle, the definitions set forth in section 53101  
28 of title 46, United States Code, as amended by this Act, shall  
29 apply.

30 **SEC. 3537. EFFECTIVE DATES.**

31 (a) IN GENERAL.—Except as provided in subsections (b)  
32 and (c), this subtitle shall take effect October 1, 2004.

33 (b) REPEALS AND CONFORMING AMENDMENTS.—Section  
34 3534 shall take effect October 1, 2005.

35 (c) OTHER PROVISIONS.—Sections 3533, 3535, and this  
36 section shall take effect on the date of the enactment of this  
37 Act.



35–52

## **Subtitle D—National Defense Tank Vessel Construction Assistance**

### **SEC. 3541. NATIONAL DEFENSE TANK VESSEL CON- STRUCTION PROGRAM.**

The Secretary of Transportation shall establish a program for the provision of financial assistance for the construction in the United States of a fleet of up to 5 privately owned product tank vessels—

(1) to be operated in commercial service in foreign commerce; and

(2) to be available for national defense purposes in time of war or national emergency pursuant to an Emergency Preparedness Plan approved by the Secretary of Defense pursuant to section 3543(e).

### **SEC. 3542. APPLICATION PROCEDURE.**

(a) REQUEST FOR PROPOSALS.—Within 90 days after the date of the enactment of this subtitle, and on an as-needed basis thereafter, the Secretary, in consultation with the Secretary of Defense, shall publish in the Federal Register a request for competitive proposals for the construction of new product tank vessels necessary to meet the commercial and national security needs of the United States and to be built with assistance under this subtitle.

(b) QUALIFICATION.—Any citizen of the United States or any shipyard in the United States may submit a proposal to the Secretary of Transportation for purposes of constructing a product tank vessel with assistance under this subtitle.

(c) REQUIREMENT.—The Secretary, with the concurrence of the Secretary of Defense, may enter into an agreement with the submitter of a proposal for assistance under this subtitle if the Secretary determines that—

(1) the plans and specifications call for construction of a new product tank vessel of not less than 35,000 deadweight tons and not greater than 60,000 deadweight tons, that—



1 (A) will meet the requirements of foreign com-  
2 merce;

3 (B) is capable of carrying militarily useful petro-  
4 leum products, and will be suitable for national defense  
5 or military purposes in time of war, national emer-  
6 gency, or other military contingency; and

7 (C) will meet the construction standards necessary  
8 to be documented under the laws of the United States;

9 (2) the shipyard in which the vessel will be constructed  
10 has the necessary capacity and expertise to successfully  
11 construct the proposed number and type of product tank  
12 vessels in a reasonable period of time as determined by the  
13 Secretary of Transportation, taking into consideration the  
14 recent prior commercial shipbuilding history of the pro-  
15 posed shipyard in delivering a vessel or series of vessels on  
16 time and in accordance with the contract price and speci-  
17 fications; and

18 (3) the person proposed to be the operator of the pro-  
19 posed vessel possesses the ability, experience, financial re-  
20 sources, and any other qualifications determined to be nec-  
21 essary by the Secretary for the operation and maintenance  
22 of the vessel.

23 (d) PRIORITY.—The Secretary—

24 (1) subject to paragraph (2), shall give priority consid-  
25 eration to a proposal submitted by a person that is a cit-  
26 izen of the United States under section 2 of the Shipping  
27 Act, 1916 (46 App. U.S.C. 802); and

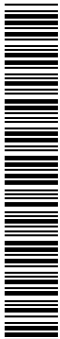
28 (2) may give priority to consideration of proposals that  
29 provide the best value to the Government, taking into  
30 consideration—

31 (A) the costs of vessel construction; and

32 (B) the commercial and national security needs of  
33 the United States.

34 **SEC. 3543. AWARD OF ASSISTANCE.**

35 (a) IN GENERAL.—If after review of a proposal, the Sec-  
36 retary determines that the proposal fulfills the requirements  
37 under this subtitle, the Secretary may enter into a contract



1 with the proposed purchaser and the proposed shipyard for the  
2 construction of a product tank vessel with assistance under this  
3 subtitle.

4 (b) AMOUNT OF ASSISTANCE.—The contract shall provide  
5 that the Secretary shall pay, subject to the availability of ap-  
6 propriations, up to 75 percent of the actual construction cost  
7 of the vessel, but in no case more than \$50,000,000 per vessel.

8 (c) CONSTRUCTION IN UNITED STATES.—A contract  
9 under this section shall require that construction of a vessel  
10 with assistance under this subtitle shall be performed in a ship-  
11 yard in the United States.

12 (d) DOCUMENTATION OF VESSEL.—

13 (1) CONTRACT REQUIREMENT.—A contract under this  
14 section shall require that, upon delivery of a vessel con-  
15 structed with assistance under the contract, the vessel shall  
16 be documented under chapter 121 of title 46, United States  
17 Code with a registry endorsement only.

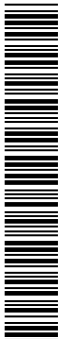
18 (2) RESTRICTION ON COASTWISE ENDORSEMENT.—A  
19 vessel constructed with assistance under this subtitle shall  
20 not be eligible for a certificate of documentation with a  
21 coastwise endorsement.

22 (3) AUTHORITY TO REFLAG NOT APPLICABLE.—Sec-  
23 tion 9(g) of the Shipping Act, 1916, (46 App. U.S.C.  
24 808(g)) shall not apply to a vessel constructed with assist-  
25 ance under this subtitle.

26 (e) EMERGENCY PREPAREDNESS AGREEMENT.—

27 (1) IN GENERAL.—A contract under this section shall  
28 require that the person who will be the operator of a vessel  
29 constructed with assistance under the contract shall enter  
30 into an Emergency Preparedness Agreement for the vessel  
31 under section 53107 of title 46, United States Code, as  
32 amended by this Act.

33 (2) TREATMENT AS CONTRACTOR.—For purposes of  
34 the application, under paragraph (1), of section 53107 of  
35 title 46, United States Code, to a vessel constructed with  
36 assistance under this subtitle, the term “contractor” as  
37 used in that section means the person who will be the oper-





1       ator of a vessel constructed with assistance under this sub-  
2       title.

3       (f) ADDITIONAL TERMS.—The Secretary shall incorporate  
4       in the contract the requirements set forth in this subtitle, and  
5       may incorporate in the contract any additional terms the Sec-  
6       retary considers necessary.

7       **SEC. 3544. PRIORITY FOR TITLE XI ASSISTANCE.**

8       Section 1103 of the Merchant Marine Act, 1936 (46 App.  
9       U.S.C. 1273) is amended by adding at the end the following:

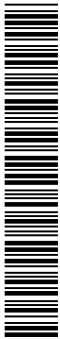
10       “(i) PRIORITY.—In guaranteeing and entering commit-  
11       ments to guarantee under this section, the Secretary shall give  
12       priority to guarantees and commitments for vessels that are  
13       otherwise eligible for a guarantee under this section and that  
14       are constructed with assistance under subtitle D of the Mari-  
15       time Security Act of 2003.”.

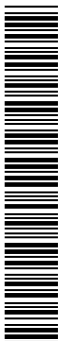
16       **SEC. 3545. DEFINITIONS.**

17       In this subtitle the definitions set forth in section 53101  
18       of title 46, United States Code, as amended by this Act, shall  
19       apply.

20       **SEC. 3546. AUTHORIZATION OF APPROPRIATIONS.**

21       There are authorized to be appropriated to the Secretary  
22       to carry out this subtitle a total of \$250,000,000 for fiscal  
23       years after fiscal year 2004.





36–1

1     **TITLE XXXVI—NUCLEAR SECURITY**  
2                   **INITIATIVE**

Sec. 3601. Short title.

**Subtitle A—Administration and Oversight of Threat  
Reduction and Nonproliferation Programs**

Sec. 3611. Management assessment of Department of Defense and Department of Energy threat reduction and nonproliferation programs.

**Subtitle B—Relations Between the United States and Russia**

Sec. 3621. Comprehensive inventory of Russian tactical nuclear weapons.

Sec. 3622. Establishment of interparliamentary Threat Reduction Working Group.

Sec. 3623. Sense of Congress on cooperation by United States and NATO with Russia on ballistic missile defenses.

Sec. 3624. Sense of Congress on enhanced collaboration to achieve more reliable Russian early warning systems.

**Subtitle C—Other Matters**

Sec. 3631. Promotion of discussions on nuclear and radiological security and safety between the International Atomic Energy Agency and the Organization for Economic Cooperation and Development.

3     **SEC. 3601. SHORT TITLE.**

4           This title may be cited as the “Nuclear Security Initiative  
5     Act of 2003”.

6     **Subtitle A—Administration and Oversight of Threat Reduction and Non-**  
7                   **proliferation Programs**  
8

9     **SEC. 3611. MANAGEMENT ASSESSMENT OF DEPARTMENT OF DEFENSE AND DEPARTMENT OF**  
10                   **ENERGY THREAT REDUCTION AND NON-**  
11                   **PROLIFERATION PROGRAMS.**  
12

13           (a) GAO ASSESSMENT REQUIRED.—The Comptroller General shall carry out an assessment of the management of the  
14     threat reduction and nonproliferation programs of the Department of Defense and the Department of Energy. The matters  
15     assessed shall include—  
16

17           (1) the effectiveness of the overall strategy used for  
18     managing such programs;  
19

20           (2) the basis used to allocate the missions of such programs among the executive departments and agencies;  
21

22           (3) the criteria used to assess the effectiveness of such  
23     programs;



## 36-2

1 (4) the strategy and process used to establish prior-  
2 ities for activities carried out under such programs, includ-  
3 ing the analysis of risks and benefits used in determining  
4 how best to allocate the funds made available for such pro-  
5 grams;

6 (5) the mechanisms used to coordinate the activities  
7 carried out under such programs by the executive depart-  
8 ments and agencies so as to ensure efficient execution and  
9 avoid duplication of effort; and

10 (6) the management controls used in carrying out such  
11 programs and the effect of such controls on the execution  
12 of such programs.

13 (b) CONSIDERATIONS.—In carrying out the assessment re-  
14 quired by subsection (a), the Comptroller General shall take  
15 into account—

16 (1) the national security interests of the United  
17 States; and

18 (2) the need for accountability in expenditure of funds  
19 by the United States.

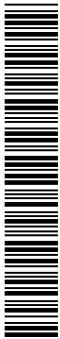
20 (c) REPORT.—Not later than May 1, 2004, the Comp-  
21 troller General shall submit a report on the assessment re-  
22 quired by subsection (a) to the Committee on Armed Services  
23 of the House of Representatives and the Committee on Armed  
24 Services of the Senate.

25 (d) DEFINITIONS.—In this section:

26 (1) The term “threat reduction and nonproliferation  
27 programs of the Department of Defense and the Depart-  
28 ment of Energy” means—

29 (A) the programs specified in section 1501(b) of  
30 the National Defense Authorization Act for Fiscal Year  
31 1997 (Public Law 104-201; 110 Stat. 2731; 50 U.S.C.  
32 2362 note); and

33 (B) any programs for which funds are made avail-  
34 able under the defense nuclear nonproliferation account  
35 of the Department of Energy.



(2) The term “management controls” means any accounting, oversight, or other measure intended to ensure that programs are executed consistent with—

(A) programmatic objectives as stated in budget justification materials submitted to Congress (as submitted with the budget of the President under section 1105(a) of title 31, United States Code); and

(B) any restrictions related to such objectives as are imposed by law.

## **Subtitle B—Relations Between the United States and Russia**

### **SEC. 3621. COMPREHENSIVE INVENTORY OF RUSSIAN TACTICAL NUCLEAR WEAPONS.**

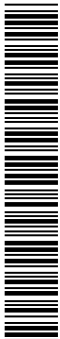
(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States should, to the extent the President considers prudent, seek to work with the Russian Federation to develop a comprehensive inventory of Russian tactical nuclear weapons.

(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the President shall submit to Congress a report, in both classified and unclassified form as necessary, describing the progress that has been made toward creating such an inventory.

### **SEC. 3622. ESTABLISHMENT OF INTERPARLIAMENTARY THREAT REDUCTION WORKING GROUP.**

(a) ESTABLISHMENT OF WORKING GROUP.—There is hereby established a working group to be known as the “Threat Reduction Working Group” as an interparliamentary group of the Congress of the United States and the legislature of the Russian Federation.

(b) PURPOSE OF WORKING GROUP.—The purpose of the working group established by subsection (a) shall be to explore means to enhance cooperation between the United States and the Russian Federation with respect to nuclear nonproliferation and security and such other issues related to reducing the dangers of weapons of mass destruction as the members of the working group consider appropriate.



1 (c) MEMBERSHIP.—(1) The majority leader of the Senate,  
2 after consultation with the minority leader of the Senate, shall  
3 appoint not more than 10 Senators to the working group estab-  
4 lished by subsection (a).

5 (2) The Speaker of the House of Representatives, after  
6 consultation with the minority leader of the House of Rep-  
7 resentatives, shall appoint not more than 30 Members of the  
8 House to the working group.

9 **SEC. 3623. SENSE OF CONGRESS ON COOPERATION BY**  
10 **UNITED STATES AND NATO WITH RUSSIA ON**  
11 **BALLISTIC MISSILE DEFENSES.**

12 (a) SENSE OF CONGRESS.—It is the sense of Congress  
13 that the President should, in conjunction with the North Atlan-  
14 tic Treaty Organization, encourage appropriate cooperative re-  
15 lationships between the Russian Federation and the United  
16 States and North Atlantic Treaty Organization with respect to  
17 the development and deployment of ballistic missile defenses.

18 (b) REPORT TO CONGRESS.—Not later than one year after  
19 the date of the enactment of this Act, the Secretary of Defense  
20 shall transmit to the Committee on Armed Services of the Sen-  
21 ate and the Committee on Armed Services of the House of Rep-  
22 resentatives a report (in unclassified or classified form as nec-  
23 essary) on the feasibility of increasing cooperation between the  
24 Russian Federation and the United States and the North At-  
25 lantic Treaty Organization on the subject of ballistic missile de-  
26 fense. The report shall include—

- 27 (1) the recommendations of the Secretary;  
28 (2) a description of the threat such cooperation is in-  
29 tended to address; and  
30 (3) an assessment of possible benefits to ballistic mis-  
31 sile defense programs of the United States.

32 **SEC. 3624. SENSE OF CONGRESS ON ENHANCED COL-**  
33 **LABORATION TO ACHIEVE MORE RELIABLE**  
34 **RUSSIAN EARLY WARNING SYSTEMS.**

35 It is the sense of Congress that the President, to the ex-  
36 tent consistent with the national security interests of the  
37 United States, should—



36–5

(1) encourage joint efforts by the United States and the Russian Federation to reduce the probability of accidental nuclear attack as a result of misinformation or miscalculation by developing the capabilities and increasing the reliability of Russian ballistic missile early-warning systems;

(2) encourage the development of joint programs by the United States and the Russian Federation to ensure that the Russian Federation has reliable information regarding launches of ballistic missiles anywhere in the world; and

(3) pending the execution of a new agreement between the United States and the Russian Federation providing for the conduct of the Russian-American Observation Satellite (RAMOS) program, ensure that funds appropriated for that program for fiscal year 2004 are obligated and expended in a manner that provides for the satisfactory continuation of that program.

## Subtitle C—Other Matters

### **SEC. 3631. PROMOTION OF DISCUSSIONS ON NUCLEAR AND RADIOLOGICAL SECURITY AND SAFETY BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY AND THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT.**

(a) SENSE OF CONGRESS REGARDING INITIATION OF DIALOGUE BETWEEN THE IAEA AND THE OECD.—It is the sense of Congress that—

(1) the United States should seek to initiate discussions between the International Atomic Energy Agency and the Organization for Economic Cooperation and Development for the purpose of exploring issues of nuclear and radiological security and safety, including the creation of new sources of revenue (including debt reduction) for states to provide nuclear security; and

(2) the discussions referred to in paragraph (1) should also provide a forum to explore possible sources of funds



## 36–6

1 in support of the G-8 Global Partnership Against the  
2 Spread of Weapons and Materials of Mass Destruction.

3 (b) CONTINGENT REPORT.—(1) Except as provided in  
4 paragraph (2), the President shall, not later than 12 months  
5 after the date of the enactment of this Act, submit to Congress  
6 a report on—

7 (A) the efforts made by the United States to initiate  
8 the discussions described in subsection (a);

9 (B) the results of those efforts; and

10 (C) any plans for further discussions and the purposes  
11 of such discussions.

12 (2) Paragraph (1) shall not apply if no efforts referred to  
13 in paragraph (1)(A) have been made.

And the Senate agree to the same.

